E. STATEMENT OF HISTORIC CONTEXTS

INTRODUCTION

In 1998 the U.S. Congress authorized the National Park Service to prepare a National Historic Landmarks Theme Study on the history of racial desegregation in public education. The purpose of the study is to identify historic places that best exemplify and illustrate the historical movement to provide for a racially nondiscriminatory education. This movement is defined and shaped by constitutional law that first authorized public school segregation and later authorized desegregation. Properties identified in this theme study are associated with events that both led to and followed these judicial decisions.

Some properties have already been identified as National Historic Landmarks (NHLs) for their association with well-known decisions and events in the African American strategy to desegregate schools. Currently three landmark schools represent the U.S. Supreme Court's decision in *Brown v. Board of Education* (1954) that overturned the "separate but equal" doctrine of *Plessy v. Ferguson* (1896) that found separate facilities for blacks constitutional if they were equal to the facilities for whites. Another landmark school, Central High School in Little Rock, Arkansas, is associated with President Eisenhower's decision to use federal troops to enforce school desegregation under the U.S. Constitution. These and other historically designated properties discussed in this study are identified as NHL for National Historic Landmark or NHS for National Historic Site and the year designated, i.e., Hampton Institute (NHL, 1969).

School desegregation is most commonly associated with the powerful African American struggle to gain equal rights as citizens. However, other ethnic groups also experienced limitations in school equality for their children. This narrative thus considers the school desegregation struggles of the principal communities of color together and separately as dictated by the historical record. While the African American story anchors this narrative, this study integrates the school desegregation struggles of Asian Americans, Native Americans, and Chicano/Latino Americans. School desegregation has been an important part of their ongoing freedom struggles.

From a national standpoint, the impact of both the resurgent Black Freedom Struggle and the black campaign to desegregate schools and put an end to the separate but equal doctrine has been catalytic and influential. Both the larger struggle and the black desegregation movement influenced — and at times were influenced by — the distinctive and ongoing comparable struggles of other people of color. Therefore, this study will give attention to the often separate paths of these multiple and parallel freedom struggles and school desegregation struggles in particular. In addition, it likewise bears reiteration that this work will treat those historical moments where these struggles intersect. As Chicana historian Vicki L. Ruiz has argued, these often alternative school desegregation narratives represent important and revealing "tapestries of resistance" to the dominant historical narrative of educational exclusion and inequity in the name of white supremacy.

Where some or all of these school desegregation struggles intersect--moments of cooperation as well as moments of conflict--are often telling. Two examples will suffice for illustrative purposes here. First there were the court briefs filed by lawyers representing a specific bloc, say the NAACP Legal Defense Fund representing black interests, for cases on behalf of other groups, as in *Mendez v. Westminster* (1946), where the issue was educational equity for Mexican Americans. Second, there were the conflicts among communities of color, most often between blacks as the most powerful bloc and other communities of color, about how to divide allocations for school desegregation projects, such as cultural enrichment programs. The emphasis throughout the study however, is on the struggles of people of color for educational equity and empowerment, on one hand, and against educational inequity and

apartheid, on the other. These stories provide an instructive understanding of the modern struggle for human rights as well as the modern American struggle for democratic rights.

There are three subdivisions in this study. The first treats the period from the origins of the problem of separate or segregated schools for people of color through the pivotal *Plessy v. Ferguson* (1896) decision which legalized separate but equal facilities as constitutional and resulted in separate and unequal public schools. The second considers the period from *Plessy* and subsequent U.S. Supreme Court cases enforcing states' rights to segregate schools through the first successful legal challenges to school segregation. The third treats the period comprising the cases in the U.S. Supreme Court's ruling in *Brown v. Board of Education* (1954) that segregated schools were unconstitutional, through the 1974 Supreme Court decision in *Milliken v. Bradley* which invalidated almost all efforts to integrate schools by busing students across city-county lines.

Events following the *Milliken* decision continue to affect the school desegregation story to this day. However, the study concludes with this decision for two reasons. First, it marks a new phase in the history of school desegregation and second, fifty years is a general estimate of the time needed to develop the historical perspective used to evaluate the national significance of historic property. Properties that achieved significance within the last fifty years must be extraordinary to qualify a person or event as nationally significant.

PART ONE: 1700-1900

NORTH AND SOUTH FROM COLONIAL TIMES TO THE CIVIL WAR

Brought to the New World against their will, Africans from the very start sought to advance and elevate themselves by education. Despite laws and customs which either limited or forbade the teaching of free blacks as well as slaves,[1] African Americans sought to take advantage of whatever opportunities for education did exist, or to create them where opportunities did not exist. Neither hardship nor punishment stopped the attempt to learn. Indeed, education was central to the thrust of African Americans, individually and collectively, toward freedom, toward equality, toward self-definition. The black pursuit of education was, from the start, an integral part of the ongoing African American liberation struggle.

In colonial New England, where the codes governing slavery did not prohibit teaching slaves to read or write, some masters provided African Americans with an education so that they could be put to work at such occupations as clerking and printing. Some simply thought it the right thing to do: the young girl brought from Africa in 1761 and educated by her mistress became the poet Phillis Wheatley. Overwhelmingly, however, the mainspring for educating slaves in New England was a concern for the spiritual welfare of blacks. The belief that the African American had a soul to be saved led Puritan John Eliot in 1674 to entreat masters to send their blacks to him for instruction in reading the Bible, and Cotton Mather to establish a charity Bible school for blacks as well as Indians in 1717. Because the African American's conversion and salvation necessitated education, Massachusetts Bay Colony Judge Samuel Sewall urged all masters to give religious instruction to their bondsmen; and in the first antislavery pamphlet published in America, *The Selling of Joseph* (1700), Sewall reminded his readers that "all Men, as they are the Sons of Adam,...have equal Right unto Liberty, and all other outward

[1] Although we use the term slaves as opposed to enslaved people in this essay, we fully mean to convey that this was a status imposed on African people.

Comforts of Life."[2]

To engage in missionary work among blacks and Indians, Anglicans in London established the Society for the Propagation of the Gospel in Foreign Parts in 1701. Four years later they established a school for Negroes in New York. In 1745, the Society founded the Charleston Negro School. There, two former slaves, Harry and Andrew, who had been educated so that they could educate other African Americans, served as the main teachers. The Society, working with other Anglicans organized as the "Associates of Doctor Bray," also began schools for blacks in Williamsburg and Philadelphia. In Newport, Rhode Island, Ezra Stiles, pastor of the Second Congregational Church, instructed his black communicants to read and write.

Of all the denominations, only the Quakers initially conceived of educating blacks as a step toward the abolition of slavery, combining physical emancipation with spiritual salvation. Thus, the antislavery Quaker John Woolman advocated that masters teach their bondsmen to read and write, and his close associate, Anthony Benezet, founded a school for slaves in Philadelphia in 1770. By 1787, the Quakers had established seven schools for blacks in Philadelphia, and their zeal had influenced Rhode Island in 1784 to enact a law that both freed the slaves and stipulated that all their children be taught to read and write.

In the South, Quakers and pious Presbyterians also established schools for blacks; overall, however, rice counted for more than righteousness in the Southern colonies. "Talk to a Planter of the Soul of a Negro," wrote Samuel Sewall in 1705, "and He'll be apt to tell ye (or at least his Actions speak it loudly) that the Body of one of them may be worth twenty Pounds; but the Souls of an hundred of them would not yield him one Farthing...." Most Southern whites declared blacks did not have the mental capacity to be educated, yet feared literacy would encourage escape or revolt. Southern colonies grew increasingly restrictive toward teaching slaves to read or write and giving books or pamphlets to a slave. In 1740, South Carolina legislated: "That all and every person and persons whatsoever, who shall hereafter teach, or cause any slave or slaves to be taught to write, or shall use or employ any slave as a scribe in any manner of writing whatsoever, hereafter taught to write; every such person or persons shall, for every offense, forfeit the sum of one hundred pounds current money."[3]

Nevertheless, depending on time and place, and the character of the individuals involved, some masters and mistresses taught their favorite slaves to read and write. Future African American leader Frederick Douglass learned from the woman who owned him. Others were taught by the planter's children: Sarah and Angelina operated a school for slaves late at night in the home of their father, John Fouchereau Grimké, judge of the Supreme Court of South Carolina. "The light was put out, the keyhole secured," Sarah Grimké would later write, "and flat on our stomachs before the fire, with spelling books in our hands, we defied the laws of South Carolina." On occasion even the overseers did the teaching. Not infrequently, literacy led to manumission, and to the rise of free black communities in the South.[4]

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[2] On the education of blacks in the colonial period see John Hope Franklin and Alfred A. Moss, Jr., *From Slavery to Freedom, A History of African Americans*, 7th ed. (New York: McGraw-Hill, 1994), 99-100, 188. Also still very much worth consulting are Horace Mann Bond, *The Education of the Negro in the American Social Order* (New York: Prentice-Hall, Inc., 1934), and Carter G. Woodson, *Education of the Negro Prior to 1861* (New York: G. P. Putnam's, 1915).

[3] Cited in Mary Frances Berry and John W. Blassingame, *Long Memory: The Black Experience in America* (New York: Oxford University Press, 1982), 262.

[4] The most comprehensive history of black education is Henry Allen Bullock, *A History of Negro Education in the South from 1619 to the Present* (Cambridge: Harvard University Press, 1967), Grimké quote on 10. Also see Janet

Some Southern cities tolerated church-run schools for blacks. As antagonism grew toward black education, there were whites and free African Americans willing to run the risk of legal prosecution to instruct blacks in clandestine schools. In 1801 a founder of the Abolition Society of Wilmington, Delaware, began a school to teach African Americans reading, writing, and arithmetic. Similar schools were established in Baltimore by the all-black Sharp Street Methodist Church, by AME minister Daniel Coker, and by several of the many mutual-aid associations operating in that city. Nearly fifteen hundred African Americans would be in school in Baltimore in 1850. Three former slaves built the first school for blacks in Washington, DC in 1807; and the Resolute Beneficial Society opened the second in 1818. In Charleston, the Brown Fellowship Society started a program of education for African Americans in 1790, and free blacks organized the Minor's Moralist Society school for orphans and indigents in 1810. Educated there for two years, Daniel Alexander Payne then took private lessons from a free black teacher, taught himself French, Greek, Latin, botany, and zoology, and opened his own school for blacks in Charleston. Other schools for African Americans were established in Norfolk, Petersburg, and Richmond, Virginia. A school in Louisville allowed slaves to attend upon presentation of a permit from their master. For some thirty years, John Chavis operated a school in Raleigh, North Carolina, in which he taught whites during the day and free blacks at night. Affluent free blacks, such as Thomy Lafon, Madame Couvent and Aristide Mary, founded the *Ecole des Orphelins Indigents* (School for Needy Orphans) in New Orleans in 1846, offering courses in French and Spanish. Other schools for free blacks followed, and by 1850 some one thousand blacks attended school in New Orleans.[5]

The race system grew harsher following the slave conspiracy led by Gabriel Prosser in 1800, the Denmark Vesey insurrection of 1822, and, especially, Nat Turner's revolt in 1831, which took sixty white lives. The teaching of slaves, and even of free blacks, was discouraged and penalized as never before. With good reason, since it was often the educated, like Vesey and Turner, that became slave rebels. Free blacks who had been educated as slaves, such as William Wells Brown, Frederick Douglass, Thomas H. Jones, Lunceford Lane, and Austin Steward, frequently joined the antislavery movement as orators and writers, dramatizing the evils of the "peculiar institution" while visibly demonstrating that African Americans could be literate, learned Americans--at a time when many whites were illiterate. North Carolina was typical of southern legislative responses to Nat Turner. At its 1831 legislative session, North Carolina enacted an "Act to Prevent All Persons from Teaching Slaves to Read or Write." Passed because such teaching "has a tendency to excite dissatisfaction in their minds, and to produce insurrection and rebellion," the law proscribed that any white convicted of this offense be fined or imprisoned and that any free person of color or slave "be sentenced to receive thirty nine lashes on his or her bare back."[6]

Southern white fear of further slave uprisings and agitation of the slavery issue brought forth ever more stringent laws and harsher penalties to control the minds as well as bodies of black slaves, and some states denied even free blacks the opportunity to learn to read and write. In Richmond, the white teacher in a night school for free African Americans was run out of town, and the black man who had hired him was jailed and then sent briefly to the Williamsburg Lunatic Asylum. Nevertheless, bondsmen continued to sneak out of cabins at night, to meet in gulleys, and clandestinely study by torchlight. Older

Duitsman Cornelius, *"When I Can Read My Title Clear": Literacy, Slavery, and Religion in the Antebellum South* (Columbia: University of South Carolina Press, 1991).

[5] Ira Berlin, *Slaves Without Masters: The Free Negro in the Antebellum South* (New York: Pantheon, 1975). See especially 64-76, 168-174, 283-85.

[6] *Acts Passed by the General Assembly of the State of North Carolina at the Session of 1830-1831* (Raleigh, 1831), 11.

slaves secretly taught young ones, like John Malvin, to read. At enormous risk, Levi Coppin learned his 3R's from his slave mother, and Samuel Ringgold at his father's knee.[7]

In the North, educational opportunities for African Americans widened after the Revolution, but became increasingly segregated. Emphasizing the importance of a common school education to citizenship and socioeconomic mobility, black Bostonians petitioned in 1787 that provision be made for the education of their children. Failing, they provided it themselves, often with the assistance of sympathetic whites. In 1798 a white teacher in Boston established a separate school for blacks in the home of the prominent African American veteran of the Revolutionary War, Primus Hall. Because the city refused to open a school for blacks until 1820, most black children in Boston attended classes in the African Meetinghouse, taught by two Harvard men. African American self-help groups founded other schools, such as the Free African Society's school in Philadelphia in 1787 and the African Benevolent Society's free school in Newport, Rhode Island in 1807. In several communities, blacks organized Phoenix Societies to promote African American schools. Still others were established by antislavery organizations, like the New York Manumission Society's African Free School. Begun in 1787 with forty students, the African Free School marked the beginning of free secular education in New York City. It would have more than five hundred black students by 1820, and would eventually become part of the public school system. In Cleveland, John Melvin, an African American merchant, established that city's first school for blacks and sponsored other such schools in Ohio in the 1830s.[8]
Most schools for blacks in the early 19th century remained church-related; following the pattern set by Richard Allen's AME Church in Philadelphia, where the pastor doubled as the schoolmaster, teaching children during the day and their parents at night. Well into the 1840s in towns like Troy, New York, which barred blacks from public schools, such pastors as Henry Highland Garnet of the Negro Presbyterian Church continued to serve as the teacher in a makeshift classroom in the church hall. Few doubted that education was, in the words of the African American teacher, Lewis Woodson, the "jewel that will elevate, ennoble, and rescue the bodies of our long injured race from the shackles of bondage, and their minds from the trammels of ignorance and vice."[9]

Free blacks believed their passion for education proved they were industrious, not indolent, and would eventually overcome the prejudices of whites and lead to their advancement. However, many Northern whites considered education for African Americans a nuisance at best and a dire threat to their jobs and wages at worst. An Ohio law of 1829 excluded all blacks from public schools. In 1847 the legislature relented, allowing the use of state funds for separate schools for African Americans. In 1852 Ohio made separate schools mandatory, but even segregated schools for blacks barely existed. African

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[7] Berlin, *Slaves Without Masters*, 76-77. Also see Cornelius, *When I Can Read My Title Clear, Literacy, Slavery, and Religion in the Antebellum South;* Bond, *The Education of the Negro in the American Social Order;* Jon Sensbach, *A Separate Canaan: The Making of an Afro-Moravian World in North Carolina, 1763-1840* (Chapel Hill: University of North Carolina Press).

[8] Franklin and Moss, *From Slavery to Freedom*, 113, 160-162; Berry and Blassingame, *Long Memory*, 44-46. James Oakes, *Slavery and Freedom* (New York: Knopf, 1990) is an excellent analysis of slavery. For slave women, in particular, see Deborah Gray White, *Arn't I a Woman?* (New York: W. W. Norton, 1987), and Dorothy Sterling, ed., *We Are Your Sisters: Black Women in the Nineteenth Century* (New York: W. W. Norton, 1985).

[9] Woodson quote in Paul Boyer, *The American Nation* (Austin: Holt, Rinehart and Winston, 1988), 290. Also see Carol V. R. George, *Segregated Sabbaths: Richard Allen and the Emergence of Independent Black Churches, 1760-1840* (New York: Oxford University Press, 1973) and Gary B. Nash, *Forging Freedom: The Formation of Philadelphia's Black Community, 1720-1840* (Cambridge: Harvard University Press, 1988).

Americans in all the states of the former Northwest Territory had to wait until after the Civil War before a significant number would be admitted to public schools.[10]

In the older states of the North, free blacks had little more success in their campaign to gain equal educational opportunities. A town meeting in New Haven in 1831 voted 700 to 3 to resist by every lawful means the establishment of a manual labor school for blacks. In 1833, when a Quaker teacher, Prudence Crandall, opened a school for "Young Ladies and Little Misses of Color" in Canterbury, Connecticut, white villagers fouled its well and tried to burn it down. The state legislators then passed a law banning schools for blacks, under which Crandall was convicted. Although she successfully appealed her conviction, whites again attacked the school and closed it down in 1834. In Canaan, New Hampshire, the following year, an angry mob of whites employed one hundred oxen to pull a black school, the Noyes Academy, off its foundation and dump it in a swamp outside the town. "We view with abhorrence," declared the Canaanites, "the attempt to establish in this town a school for the instruction of the sable sons and daughters of Africa." Similarly, white mobs destroyed the school attended by African Americans in Zanesville, Ohio, and forced New Haven, Connecticut, to scuttle plans for a college for blacks.[11]

Although no clear pattern of education for African Americans in the North emerged before the Civil War, most towns and cities either refused to enroll black students or segregated them. Even the Quakers established segregated schools, such as the Institute for Colored Youth in Philadelphia. Pennsylvania required separate schools if the number of African American students in a district exceeded twenty. New York allowed local school boards the option to establish segregated facilities, as did Massachusetts, although most towns there followed Boston's lead in 1820 of excluding blacks from white schools. Connecticut and New Jersey also established separate schools for African Americans. Many locales made no provision at all for the education of African Americans and, despite being taxed to support white schools, they had to finance their own schools.

White school administrators rarely, if ever, provided adequate funds for the schools for blacks. Underfunded and overcrowded, these schools inevitably lacked the most minimal of equipment and supplies, reflecting the second-class status that whites had forced upon blacks. For schools for whites "no expenditure is spared to make them commodious and elegant," noted the *New York Tribune*, but those for African Americans "are nearly all, if not all, old buildings, generally in filthy and degraded neighborhoods, dark, damp, small, and cheerless, safe neither for the morals nor the health of those who are compelled to go to them, if they go anywhere, and calculated rather to repel than to attract them." Accordingly, some African Americans prodded their legislatures for the same state subsidies given to white schools.[12]

Others refused to accept separate schools for blacks, and struggled for integrated schools. Disgusted by the inferior African American school housed in a Rochester church basement, Frederick Douglass wrote stinging protest editorials in his abolitionist newspaper the *North Star* in the late 1840s, and in the 1850s led a successful attack against the segregated school system in that city. Robert Purvis, a wealthy

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[10] Leon Litwack, *North of Slavery, The Negro in the Free States, 1790*-1860 (Chicago: University of Chicago Press, 1961), and Leonard P. Curry, *The Free Black in Urban America, 1800-1850* (Chicago: University of Chicago Press, 1981) remain indispensable analyses of blacks in the North.

[11] Franklin and Moss, *From Slavery to Freedom*, 110; Litwack, *North of Slavery*, esp. 120.

[12] August Meier and Elliott Rudwick, *From Plantation to Ghetto* (New York: Hill & Wang, 1966), 109-114.

suburban black Philadelphian, refused to pay taxes in 1852 for schools that excluded his children. He rejected as "a flimsy and ridiculous sham" the separate school provided for African Americans. Purvis insisted that his children had the right to attend the neighborhood white school. Claiming that segregated schools violated "my rights as a citizen, and my feelings as a man," he continued not to pay taxes until local officials relented and desegregated his neighborhood school.[13]

Black parents in Boston petitioned the school committee to end segregation in education after a campaign of political action and sit-ins by abolitionists, led by the historian William C. Nell, had compelled the railroads in Massachusetts to end segregation. Cambridge, Lowell, New Bedford, and Worcester had already integrated their schools, but the all-white Boston school committee turned the petitioners down. Benjamin Roberts, whose six-year-old daughter Sarah had to walk past five white elementary schools nearer to her home before she reached the all-black Smith Grammar School (part of the Boston African American NHS, 1980), then filed suit challenging segregation in the schools of Boston. Representing Roberts was Robert Morris, who as a young house servant had been taught law by his employer and had been admitted to practice law by the Superior Civil Court of Suffolk County in 1847. That year in what is considered the first lawsuit filed by a black lawyer, Morris prevailed against a white lawyer, and then took on Roberts' lawsuit to desegregate the Boston public school system.[14] The court ruled against Roberts, upholding the local school board, and Morris immediately appealed the ruling to the Supreme Judicial Council of Massachusetts, the highest court in the commonwealth. To assist Morris, Roberts, with funds supplied by William Lloyd Garrison, Wendell Phillips and other abolitionists, then hired Charles Sumner (Charles Sumner House, NHL, 1973), an antislavery white lawyer who in 1851 would be elected to the United States Senate. Morris and Sumner, in 1848, filed the first civil rights appellate brief to be co-signed by a black lawyer and white lawyer. It argued that school segregation violated the Massachusetts constitution's declaration that all men are born free and equal. According to the brief, "free and equal" meant that all were entitled to equal protection of the laws, and that "equal protection" forbade separating students in ways that had nothing to do with education. Thus, classifications by age, or sex, or intellectual fitness were reasonable and permissible, but racial classifications and the resulting segregation were "in the nature of *Caste*, and, on this account, a violation of Equality." Requiring Negroes to attend segregated schools, said Sumner, deprived them of the equal protection stipulated by the state constitution. This was the first formulation of the concept that segregation itself constituted *inequality* and thus violated the equal protection of the laws.[15]

In addition, Sumner argued that segregation injured whites as well as blacks. "Nursed in the sentiments of Caste," whites are thereafter "unable to eradicate it from their natures." Segregation, moreover, brands "a whole race with the stigma of inferiority and degradation," deprives "them of those healthful, animating influences which would come from participation in the studies of their white brethren," and "widens their separation from the community," adding "to their discouragements." Concluding, Sumner asserted, "Nothing is more clear than that the welfare of classes, as well as of individuals, is promoted by mutual acquaintance. Prejudice is the child of ignorance. It is sure to prevail, where people do not know each other." Sumner's ultimately compelling brief for equality before the law and racial integration

[13] Berry and Blassingame, *Long Memory*, 46.

[14] Donald G. Nieman, *Promises to Keep: African-Americans and the Constitutional Order, 1776 to the Present* (New York: Oxford University Press, 1991), 40.

[15] *Roberts v. City of Boston*, 5 Cushing Reports 198 (1849); Leonard Levy and Harlan Philips, "The Roberts Case: Source of the 'Separate But Equal Doctrine,'" *American Historical Review* 56 (1951), 510-518; and Leonard Levy and Douglas Jones, ed., *Jim Crow in Boston: The Origin of the Separate but Equal Doctrine* (New York: Da Capo Press, 1974), 181, 210.

would play a leading role a century later in the legal campaign against segregation in public education, but not in the Massachusetts of 1849.

Sumner's eloquence on behalf of human rights did not persuade Lemuel Shaw, the most prominent jurist of the day and the Chief Justice of the Supreme Judicial Court of Massachusetts. Speaking for his colleagues on the state's highest court, Shaw held that the state constitution's guarantee of equality was met if African Americans enjoyed access to an education equivalent to that for whites, and that separate common or public schools for blacks did not violate their right to equality before the law. The Court's "separate but equal" decision favoring separate schools became a powerful buttress in the legal edifice of Jim Crow. It would be cited as precedent by a dozen state courts, and by the Supreme Court of the United States on at least three occasions to justify state-approved segregation of the races. Not once did those later courts also mention that black and white abolitionists then organized a propaganda campaign to persuade the Massachusetts legislature to enact a law prohibiting school segregation, and that it did so in 1855. The case argued by Morris and Sumner, moreover, also helped set in motion a jurisprudence of opposition to segregated public education that would culminate more than a century later in *Brown v. Board of Education*.[16]

African Americans also pressed to obtain higher education. As the Second Annual Convention for the Improvement of the Free People of Color affirmed in 1832, "If we ever expect to see the influence of prejudice decrease and ourselves respected, it must be by the blessings of an enlightened education." From Middlebury College in 1823, Alexander L. Twilight became the first known African American to graduate from an American institution of higher learning. Three years later, Edward Jones received his bachelor degree from Amherst College and John B. Russworm received his from Bowdoin College. By 1860, twenty-eight African Americans had graduated from the handful of colleges and universities that had opened their doors to blacks, mostly from Oberlin College (NHL, 1965) in Ohio (1833), the nation's first integrated, coeducational college. In addition, what would become the first black college, Cheyney State Training School, was established in Pennsylvania in 1837. The Institute for Colored Youth in Philadelphia and Avery College in Charleston followed in 1842 and 1849. In 1851 Myrtilla Miner founded an academy for black women in Washington, DC. With Presbyterian sponsorship, Lincoln University, incorporated in 1854 as the Ashmun Institute, began matriculating students two years later. In 1855 the Cincinnati Conference of the Methodist Episcopal Church voted to begin a college for African Americans; it was incorporated the next year as Wilberforce University.

Despite almost insurmountable barriers, some 32,692 blacks attended educational institutions on the eve of the Civil War. Against the odds, other African Americans learned, often covertly and at their peril, from slaves and from free blacks, from whites who would teach them, and from their parents. According to historian Thomas Holt, some 200,000 slaves were literate in 1860. After being taught to read by his father, John Mercer Langston attended private schools in Cincinnati and Chillicothe. There a young black instructor, himself attending Oberlin College, inspired Langston to pursue a college education. He did so in 1844, and graduated with high honors from Oberlin in 1849. Langston then chose to go to law school, but none would admit him, as was the common practice in most seminaries, colleges, and professional schools. Undaunted, the future African American reform leader and government official began studying law with the abolitionist ex-Congressman Philemon Bliss of Elyria, Ohio, and passed his bar examination in 1854.[17]

[16] Richard Kluger, *Simple Justice* (New York: Knopf, 1976), 75-77.

[17] Thomas Holt, "The Emergence of Negro Political Leadership in South Carolina During Reconstruction" (Ph.D.

By then the slavery issue had fueled bitter sectional and partisan divisions. Nothing did more to push the United States further toward disunion than the Supreme Court's *Dred Scott v. Sanford* decision in 1857 (Old St. Louis Courthouse, location of Scott's second trial, is part of the Jefferson National Expansion Memorial NHS, 1954; NHL 1966). Although each of the seven justices ruling against Scott wrote a separate opinion, the sweeping proslavery polemic by Chief Justice Roger B. Taney, one of five southerners on the high court, was widely accepted as the definitive view of the Supreme Court. Taney declared that Scott, a slave whose owner had taken him from the slave state of Missouri to the free state of Illinois and then back to Missouri, and who sued for his freedom on the grounds that living in a free state had made him a free man, was not a citizen and therefore could not bring suit in U.S. courts. Since slaves were property, Taney further ruled, Congress had acted unconstitutionally in barring slavery from the territory north of 36"30' (in the Missouri Compromise), since the Fifth Amendment protected property, and Congress could not therefore deprive slaveowners of their property. Congress thus could not stop the further extension of slavery; and, rubbing salt in the wounds of African Americans and abolitionists, Taney asserted that blacks were "a subordinate and inferior class of beings" with "no rights which the white man was bound to respect."[18]

CIVIL WAR AND RECONSTRUCTION, 1860-1877

The quest for education, for freedom and equality, so intertwined in the minds of black Americans, would be manifest throughout the Civil War. As the Union Army moved south, planters fled, leaving slaves behind. The former bondsmen, now considered "contraband of war," clamored for education. Indeed, shortly after the guns began to boom, Mary Chase, a free black, opened a school for African Americans, in Alexandria, Virginia. Mary Peake, a free black person whose father was "an Englishman of rank and culture," established a school for blacks under the auspices of the AME near Fort Monroe in Virginia. Then Lewis Tappan of the American Missionary Association (AMA) secured the approval of Major General Benjamin F. Butler to have his organization start educating the blacks seeking refuge behind federal lines. On September 15, 1861, the AMA opened a Sunday School for blacks in the home of former President John Tyler. Within several months the AMA at Hampton, Newport News, Norfolk, and Portsmouth, Virginia had established similar schools.[19]

Various Union generals soon appealed for emergency philanthropic assistance for the ex-slaves who entered Union lines seeking freedom. Newly established societies to aid the freedmen, such as the Contraband Committee of Mother Bethel Church in Philadelphia, the New England Freedmen's Aid Society, the Freedmen's Friends Society of Brooklyn, the National Freedmen's Relief Association, and the African Civilization Society and the Union Relief Association of Israel Bethel Church (AME) in

dissertation, Yale University, 1973), 49; Lenore Bennett, Jr., *Before the Mayflower* (Chicago: Johnson Publishing, 1961), 171-172; Berry and Blassingame, *Long Memory*, 47-48.

[18] *Dred Scott v. Sanford*, 19 Howard 393 (1857); Don E. Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics* (New York: Oxford University Press, 1978), especially 333-334. The Missouri Compromise refers to the collective group of laws enacted by Congress in 1820 which admitted Maine to the Union as a free state and Missouri as a slave state, and allowed slavery in the Louisiana territory south of the 36"30' latitude line while prohibiting it in the land north of 36"30'.

[19] Key monographs include Samuel L. Horst, *Education for Manhood: The Education of Blacks in Virginia during the Civil War* (Lanham, Md: University Press of America, 1987); Patricia Romero, *Negro Americans in the Civil War: From Slavery to Citizenship* (New York: Publishers Co., 1969); Clarence L. Mohr, *On the Threshold of Freedom: Masters and Slaves in Civil War Georgia* (Athens, Ga.: University of Georgia Press, 1985); and C. Peter Ripley, *Slaves and Freedman in Civil War Louisiana* (Baton Rouge: Louisiana State University Press, 1975).

Washington, DC, provided food, clothing, and schools taught by free blacks and abolitionists. Francis L. Cardozo, a freeborn Charlestonian, became the first principal of the AMA's Avery Institute in that city. Charlotte Forten of Philadelphia, granddaughter of the black abolitionist James Forten, joined the teachers at the Penn School on St. Helena, one of the Sea Islands off the coast of South Carolina and the first plantation territory to come under complete Union control. "Dear children! Born in slavery, but free at last," Forten wrote in her journal soon after her arrival. "My heart goes out to you. I shall be glad to do all that I can to help you." In addition to instructing the former slave children in reading and writing, Forten taught them history, especially the history of black freedom fighters, such as the Haitian Toussaint L'Ouverture. "They listened very attentively," she noted. "It is well that they should know what one of their own color could do for his race. I long to inspire them with courage and ambition (of a noble sort) and high purpose." She particularly admired their determination to learn.

> I never before saw children so eager to learn.... Coming to school is a constant delight and recreation to them. They come here as other children go to play. The older ones, during the summer; work in the fields from early morning until eleven or twelve o'clock, and then come into school, after their hard toil in the hot sun, as bright and anxious to learn as ever.[20]

Similarly finding the former slaves ready and eager to learn, the abolitionist wing of the American Baptists in 1862 called for a program of education for freedmen, as did the Quakers, whose Yearly Meetings of the Religious Society of Friends established committees on freedmen's affairs. Not to be outdone, not to allow others to gain all the black converts to their specific creeds, nearly every major denomination by war's end had begun its own black educational effort in rivalry with the others. Together they had raised over one million dollars for supplies and teachers. Coming south with handfuls of *McGuffey's Readers, Greenleaf's Arithmetic, Webster's Speller*, and with enormous enthusiasm, they taught African Americans, including those who had volunteered for the Union army. A teacher of black soldiers stationed in Vicksburg claimed to "have never seen such zeal on the part of pupils, nor such advancement as I see here." Still others set up makeshift schools in contraband camps and on plantations that were under Union control. Schools sprouted everywhere that bondsmen became freedmen. In Natchez, a black woman founded three schools. In Savannah, even before their freedom had been proclaimed or officially recognized, blacks transformed Bryan's Slave Market, the city's slave-trading center, into Bryan's Free School, the city's first open school for African Americans. Another school for former bondsmen and their children, also financed by blacks, soon followed, as did the Savannah Educational Association, a black community organization which entirely supported its own schools, hired an all-black faculty, and determined its own educational policies.[21]

By mid-1863, thousands of blacks emerging from slavery attended schools in North and South Carolina founded by the various freedmen's relief associations of New England. About fifty "Yankee schoolmarms" were teaching another three thousand ex-slaves in Virginia. That same year, General Nathaniel P. Banks established a system of public education for African Americans in New Orleans and its environs; by the end of 1864 some ten thousand students were being taught by 162 teachers in 95

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[20] James M. McPherson, *The Struggle for Equality: Abolitionists and the Negro in the Civil War and Reconstruction* (Princeton: Princeton University Press, 1964), 160-177; Ray Allen Billington, ed., *The Journal of Charlotte L. Forten* (New York: Dryden Press, 1953); Willie Lee Rose, *Rehearsal for Reconstruction: The Port Royal Experiment* (Indianapolis: Bobbs-Merrill, 1964); and Bullock, *A History of Negro Education in the South*, 19-20.

[21] John W. Blassingame, "The Union Army As an Educational Institution for Negroes, 1862-1865," *Journal of Negro Education* 34 (Spring 1965); Meier and Rudwick, *From Plantation to Ghetto*, 174-175. The recollections of the war and Reconstruction by former slaves are in James Mellon, ed., *Bullwhip Days: The Slaves Remember* (New York: Avon, 1992).

schools. Freedom meant education, whether in public schools or those founded by sectarian missionary societies, which from 1864 on largely supplanted the secular organizations to aid freedmen. "If I nebber does do nothing more while I live," proclaimed an ex-slave, "I shall give my children a chance to go to school, for I considers education next best thing to liberty." Again and again, when asked what they most desired to improve themselves, blacks put education first.[22]

The education of contraband during the war, the education of a race emerging from slavery, despite inadequate resources and insufficient teachers, proved to be a "Rehearsal for Reconstruction." But it was just a rehearsal. The main act would begin with an 1865 act of Congress creating the Bureau of Refugees, Freedmen, and Abandoned Lands. Commonly called the Freedmen's Bureau, and housed within the War Department, its first commissioner, one-armed General Oliver Otis Howard, set out to provide the four million freedmen suddenly cast adrift with food rations, medical attention, and "the foundations of education." Because education, according to Howard, "underlies every hope of success for the freedmen," the Bureau immediately began to coordinate and assist the many private religious and benevolent educational programs already in operation, provide transportation for teachers, subsidize the cost of buildings, aid in the creation of black normal schools, and open its own freedmen's schools for those hungering to learn.[23]

Just one of many who labored diligently against the ignorance and poverty that slavery had forced upon most African Americans, Robert G. Fitzgerald was sent by the Bureau in 1866 to teach in a small Virginia town. He erected a school, the Freedman's Chapel School, and began teaching reading, writing, geography, and arithmetic to some sixty former slaves of all ages. Fitzgerald, who had been born a free black in Delaware and had served in both the U.S. Army and Navy during the Civil War, held classes five days a week, six hours a day, as well as night school two evenings a week. Having few if any textbooks, Fitzgerald often taught from the *Farmer's Almanac* and the Bible. Still, in his first annual report to the Freedmen's Bureau, Fitzgerald stated that his pupils' "progress has been suprisingly rapid."[24]

"Few people who were not right in the midst of the scene can form any exact idea of the intense desire which the people of my race showed for education," recalled black educator Booker T. Washington in his *Up from Slavery*. "It was a whole race trying to go to school. Few were too young, and none too old, to make the attempt to learn. As fast as any kind of teachers could be secured, not only were day-schools filled, but night-schools as well." The African American quest for education, the black writer and scholar W. E. B. Du Bois agreed, "was one of the marvelous occurrences of the modern world; almost without parallel in the history of civilization." Classes were held in tents, barns, and shanties, at open-air meetings, and, in Braxton, Mississippi, under a tree. "I just take my chart, speller and chalk around to their houses," wrote William Burgess, "hear their lessons--then make chalk letters on the walls about for them to learn by the next day--then go to the next house and do likewise and so on." The numbers of applicants overwhelmed teachers. In Wilmington, Delaware, a teacher called for

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[22] Bullock, *A History of Negro Education in the* South, 24-26. Also see James M. McPherson, *Ordeal by Fire: the Civil War and Reconstruction* (New York: McGraw Hill, 1985), and, especially, Eric Foner, *Reconstruction: American's Unfinished Revolution, 1863-1877* (New York: Harper & Row, 1988).

[23] McPherson, *The Struggle For Equality*, 386-407; Leon F. Litwack, *Been in the Storm So Long, The Aftermath of Slavery* (New York: Random House, 1979), 477, 488-500; John and La Wanda Cox, "General O. O. Howard and the 'Misrepresented Bureau'," *Journal of Southern History*, 19 (November 1953), 427-56. Also see John Hope Franklin, *Reconstruction After the Civil War* (Chicago: University of Chicago Press, 1961) and, for a negative critique, Ronald E. Butchart, *Northern Schools, Southern Blacks, and Reconstruction: Freedmen's Education, 1862-1875* (Westport, Ct.: Greenwood Press, 1980).

[24] Robert F. Fitzgerald in Gerald A. Danzer, et al., *The Americans* (Evanston, IL.: McDougal Littel, 1998), 356.

enrollments to begin at nine o'clock: "by seven the street was blocked, the yard was full." A teacher in Athens, Georgia, attempting to limit her primary class to one hundred, listened to parents pleading "do let them come if you please, ma'am, and if you can't teach them even a little, just let them sit and hear what the rest learn; they'll be sure to catch it."[25]

The initiative of the black community in establishing and supporting its own schools further testified to the freedmen's eagerness to learn. African Americans gave their nickels and dimes to support education; they cleared the land, cut the lumber, and contributed their carpentry skills to put up schoolhouses; and they organized excursions, fairs, and picnic suppers to raise money to buy books and hire teachers. At the end of 1866, blacks supported in whole or in part nearly a hundred schools in Georgia; a year later, they supported entirely or partly 152, or some two-thirds of the schools in that state. By 1870, similarly, Virginia freedmen helped finance 215 schools and owned 111 school buildings. Amazingly, given their widespread destitution, freedmen contributed $785,700 for black education between 1865 and 1870, according to W. E. B. Du Bois. The Freedmen's Bureau, which ceased operation in 1871, had spent more than $5 million on education for ex-slaves, helping to finance some 4,300 schools with 9,300 teachers and nearly a quarter of a million students. By then, moreover, over half the teachers of blacks were African Americans; and by 1877, more than 600,000 African Americans were enrolled in school.[26]

The American Baptist Home Mission Society, Presbyterian Synod, and especially the AMA, received the lion's share of Freedmen's Bureau largess. From 1865 to 1870 they spent about one-half million dollars a year founding schools, supplying books and materials, and supporting a couple of thousand teachers. Often condescending, assuming a liberal education unsuitable for African Americans, missionary teachers taught the habits of thrift and industry and such manual arts as needlework for girls and woodwork for boys. Most assumed, as did the large majority of nineteenth century white Americans, the inherent inferiority of blacks. Their role as teachers, thus, was to "civilize," elevate, and prepare blacks "for the position and duties of Christian freedmen," which usually meant inculcating those character or personality traits they associated with godly, white, middle-class church-goers in New England. The readings given to blacks, more often than not from the Congregationalist-dominated American Tract Society, emphasized piety, docile behavior, and the importance of faithful labor. The curriculum focused on elementary schooling to reduce illiteracy, and on normal-school education to train black

schoolteachers for the rudimentary public school systems established by the Reconstruction state governments.[27]

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[25] James D. Anderson, *The Education of Blacks in the South, 1860-1935* (Chapel Hill: University of North Carolina Press, 1988) is indispensable; Washington quote on 5. Also see William Preston Vaughn, *Schools for All: The Blacks and Public Education in the South, 1865-1877* (Lexington: University Press of Kentucky, 1974) and Robert Morris, *Reading, 'Riting, and Reconstruction: The Education of Freedmen in the South, 1861-1870* (Chicago: University of Chicago Press, 1981).

[26] Litwack, *Been in the Storm So Long*, 471-476, 482-484; Bennett, *Before the Mayflower*, 221-222; and Berry and Blassingame, *Long Memory*, 262-263.

[27] Anderson, *The Education of Blacks in the South, 1860-1935*, 239-278. Also see Joe M. Richardson, *Christian Reconstruction: The American Missionary Association and Southern Blacks, 1861-1890* (Athens: University of Georgia Press, 1986) and Tera W. Hunter, *To 'Joy My Freedom': Southern Black Women's Lives and Labors After the Civil War* (Cambridge: Harvard University Press, 1997).

To train African American preachers, and the other professionals needed to assume leadership of the race, the Northern missionary societies established institutions of higher learning for blacks. In 1865, the Baptist Home Mission Board led the way, founding Virginia Union University in Richmond and Shaw University. The AMA's Reverend Frederick Ayer arrived in Atlanta to take over the Jenkins Street school, which two former slaves had been operating as a school for freedmen, and turn it, eventually, into Atlanta University. Likewise, the Methodist Episcopal Church created Walden College in Nashville that year, later to become Meharry Medical College, and Morgan State University in Maryland in 1866.[28]

Additionally, 1866 saw the founding of Fisk University (NHL, 1978) by the AMA, as well as the establishment of Rust College in Mississippi and Lincoln College in Missouri. In 1867, the AMA incorporated Emerson College and Talladega College, the Baptist Home Mission Board began Atlanta Baptist College (later Morehouse College), and the federal government approved a charter for Howard University, named in honor of the Freedmen's Bureau General Oliver Howard. It opened that May in a small leased building in Washington, D.C. with four white students, the children of trustees. It quickly secured funding from the Freedmen's Bureau and many acres of additional District land, and by 1869 Howard University had nine departments in operation: college, commercial, industrial, law, medicine, military, music, normal and preparatory, and theology. By the end of the 1860s, as well, Biddle Memorial Institute (later Johnson C. Smith College) and St. Augustine's College had been founded by Northern church groups, as had Claflin, Clark, Dillard, and Tougaloo Colleges. Most were colleges in name only, with few students and a secondary school curriculum.[29]

None would have a greater impact than Hampton Normal and Agricultural Institute (NHL, 1969; NHL district, 1974) in Virginia. Much as the education received there would be the central shaping experience in the lives of Booker T. Washington and numerous other blacks who rose to prominence in the late 19th century, so the values and views of its founder, General Samuel Chapman Armstrong, would be the beacon guiding most black educators for the rest of the century. The son of a missionary, S. C. Armstrong grew up in Hawaii and then attended Williams College during the presidency of Mark Hopkins. From his father and Hopkins he learned to cherish character-building over scholarship, and going to work for the Freedmen's Bureau after the war he longed to establish a school for blacks that would emphasize moral training and a practical, industrial education. The AMA gave him the chance and the funds, and Armstrong established Hampton Institute in 1868, eager to produce "an army of black educators" who would transmit his ideas throughout the African American South.[30]

The Institute initially had one brick building, Academic Hall, and some barracks that had been built for Union soldiers. The twelve-hour regimen of inspections, work, study, roll calls, exercise, and military drill for its students must also have reminded some of an army camp. Hampton Institute's essence, however, was Armstrong's quasi-religious faith in an industrial education curriculum that he believed

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[28] Dwight O. W. Holmes, *The Evolution of the Negro College* (College Park: University of Maryland Press, 1934); and Clarence A. Bacote, *The Story of Atlanta University: A Century of Service, 1865-1965* (Atlanta: Atlanta University Press, 1969). Also see Elizabeth Jacoway, *Yankee Missionaries in the South: The Penn School Experiment* (Baton Rouge: Louisiana State University Press, 1980).

[29] Edward A. Jones, *A Candle in the Dark: A History of Morehouse College* (Valley Forge, Pa.: Judson Press, 1967); Rayford W. Logan, *Howard University, 1867-1967* (New York: New York University Press, 1969); Meier and Rudwick, *From Plantation to Ghetto*, 177-180; and Berry and Blassingame, *Long Memory*, 267-269.

[30] Louis R. Harlan, *Booker T. Washington, The Making of a Black Leader, 1856*-1901 (New York: Oxford University Press, 1972), 56-61. An early account is Francis Greenwood Peabody, *Education for Life: The Story of Hampton Institute* (Garden City: Doubleday, 1919).

would provide the temporal salvation of the freedmen. In essence, it was instruction in subordination, an education in self-discipline that molded blacks into men and women who posed no threat to white control and dominance. Far more than training for a trade, it was inculcation of the Puritan work ethic, which Armstrong believed would transform the black race. His concept of education--teaching frugality, sobriety, self-reliance, honesty, cleanliness, industry, and perseverance--spread until, as Booker T. Washington said, it "permeated the whole race in every section of the country." It would be the hallmark of most of the black colleges founded in the 1870s and 1880s, whether the white missionaries' Allen University and Wiley College, the land-grant Alcorn Agricultural and Mechanical College and Tennessee Agricultural and Industrial College, the Colored Methodist Episcopal Church's Lane College and AME's Allen University and Morris Brown College, and the Tuskegee Institute (NHL, 1965; NHS, 1966) of Booker T. Washington--Armstrong's foremost protégé.[31]

In addition, Armstrong's social conservatism, expressed monthly in the *Southern Workman* that he edited, permeated black colleges in the 19th century. Armstrong wrote repeatedly of the immorality of black politicians and the irresponsibility of black voters, always advising African Americans to be patient, eschew politics, and accept segregation. It was a message dear to the hearts of such white industrialist and financier "friends of the Negro," as William H. Baldwin, Andrew Carnegie, Collis P. Huntington, and George Foster Peabody, who increasingly controlled the purse strings of black education, as well as to the white legislators who determined appropriations for the state-financed institutions for African Americans.

Reconstruction governments gave the Southern states their first public schools. Under the provisions of the Morrill Act of 1862, which provided funds from the sale of federal land for the establishment of agricultural and mechanical colleges in the states, Reconstruction legislatures in Mississippi founded a land-grant college for blacks, Alcorn College, in 1871; Virginia designated Hampton Institute its land-grant institution for blacks the following year, and South Carolina, also in 1872, made Claflin the recipient of land-grant funds. None of the southern states admitted black students to their A&M (Agricultural and Mechanical) schools, however, and a second Morrill Act, passed in 1890, permitted states to create and fund separate African

[31] T. Thomas Fortune, *Black and White: Land, Labor, and Politics in the South* (NY, 1884), 87-90; August Meier, "The Vogue of Industrial Education," *Midwest Journal* 7 (Fall 1955), 241-266; Berry and Blassingame, *Long Memory*, 273; and Harlan, *Booker T. Washington*, 62-67.

American land-grant colleges. In short order, sixteen black land-grant colleges were established, including Florida A&M and Southern University in Louisiana.[32]

Some blacks opposed whatever smacked of a second-rate education and spurned Armstrong's lead. After visiting Hampton Institute in 1878, the Reverend Henry M. Turner criticized it for depriving black students of intellectual development and accused Armstrong of teaching Negro inferiority. Other African Americans, writing in such newspapers as the *People's Advocate*, the *Richmond Star*, and the *Louisianian*, argued that Armstrong curbed black aspirations and demanded a curriculum for liberation, not subordination. They favored a black education that challenged, not accommodated, the oppressive Southern political economy. Even such moderate African American leaders as Alexander Crummell and Calvin Chase questioned industrial training as the right education for blacks. In a similar vein, freedmen refused to patronize teachers who offended them, and black parents kept their children out of schools that assumed African American inferiority. At great cost to them, they preferred black-controlled private schools, ones that explicitly cultivated pride and manhood, to less expensive white-dominated ones. While some blacks saw in separate African American schools an escape from the interference of the whites who had so long dominated their lives, others fought against segregated education, insisting, as the *New Orleans Tribune* claimed in 1867: "Separation is not equality. The very assignment of certain schools to certain children on the ground of color, is a distinction violative of the first principles of equality."[33]

But school integration would remain rare in the nineteenth century outside of New England. Rhode Island in 1866, Michigan in 1867, and Connecticut in 1868 desegregated their public school systems, although not all-local school boards complied. Colorado, Iowa, Kansas, Minnesota, Nevada and Oregon, in the 1870s and 1880s prohibited school segregation. Chicago, Cleveland, Milwaukee, and San Francisco officially desegregated their schools in 1875, in part because maintaining separate school systems was too expensive. Although these laws established a principle of colorblind citizenship, a significant change from antebellum days, formal desegregation hardly led to mixed schools. In the words of the state superintendent of public instruction in Illinois, African Americans "preferred separate schools" and "did not desire, and indeed would not permit their children to go where they were not wanted, and where they would be exposed to unfeeling taunts and insults." Moreover, the Kansas legislature enacted a bill in 1879 permitting its larger cities to operate segregated elementary schools. The subsequent
victory over segregation in public education that would be *Brown v. Board of Education of Topeka* would originate as a challenge to this Kansas law.[34]

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[32] Bullock, *A History of Negro Education in the* South, 76-77; Harlan, *Booker T. Washington*, 73-75; and August Meier, *Negro Thought in America, 1880-1915: Racial Ideologies in the Age of Booker T. Washington* (Ann Arbor: University of Michigan Press, 1963), 85-99.

[33] Howard N. Rabinowitz, "Half a Loaf: The Shift from White to Black Teachers in the Negro Schools of the Urban South, 1865-1890," *Journal of Southern History* 40 (November 1974), 557; James M. McPherson, "White Liberals and Black Power in Negro Education, 1865-1915," *American Historical Review* 75 (June 1970), 1361; and Berry and Blassingame, *Long Memory*, 266, 274-76.

[34] Newton Bateman, Superintendent of Public Instruction of the State of Illinois, *Eighth Biennial Report* (Springfield, 1870), 25-29. Also see David A. Gerber, *Black Ohio and the Color line, 1860-1915* (1976), 190-197, 265-266, 271-276; David M. Katzman, *Before the Ghetto: Black Detroit in the Nineteenth Century* (Urbana: University of Illinois, 1973); Kenneth L. Kusmer, *A Ghetto Takes Shape: Black Cleveland, 1870-1930* (Urbana:

University of Illinois, 1976); Robert L. McCaul, *The Black Struggle for Public Schooling in Nineteenth Century Illinois* (1987).

ALONG THE COLOR LINE IN THE U.S. WEST, 1850-1900

African American

The codification of school segregation came early in the U.S. West. In 1852, two years after California became a state; the legislature passed a bill barring African American children from schools. The First State Convention of Colored Citizens of the State of California met in 1854 and in a public pronouncement chafed against this discriminatory measure. "You have been wont to multiply our vices and never to see our virtues…[Y]ou receive our money to educate your children and refuse to admit our children into the common schools."[35] By 1870 California had devised a formula of ten. When African Americans, Asian Americans, or American Indians numbered ten students, a school district was empowered to create separate schools for whites and non-white children. In Visalia, California, for example, when Daniel Scott, an African American teacher from the East, opened up a school for black children, local school officials offered him "a small fee" to enroll the Mexican American pupils also barred from the local public school.[36]

Private institutions, run by the black community sometimes with the support of northern charities, often provided the only avenues for education. Although Texas mandated segregation in 1875, European American Texans proved loathed to support "colored" schools. By the 1880s, most black Texans were taught in "churches, barns, and other rented buildings." Protesting the segregation of African American children in Kansas, William Eagleson of the *Topeka Colored Citizen* wrote, "We hear of no Irish schools, no German schools, no Swedish schools. No, not one."[37]

Fought at the local level, African Americans launched numerous campaigns to provide equal access to education for their children. In the 1860s and 1870s, the sons of Frederick Douglass, Lewis and Frederick, Jr., mobilized Denver's black community for the cause of school integration. In 1872, parents in Virginia City, Nevada proved successful in enrolling their children in the common schools. Parents understandably desired equitable treatment for their children as evidenced by a letter to a local newspaper written by an African American woman in Park City, Utah. Upset that a white parent had taken his children out of the local integrated school, she wrote, "My children's skin may be a shade darker than his, but in all other respects, they are equal." African Americans also found a few supporters among European Americans. John Martin, a Kansas newspaper editor, called for his state "to give the colored children equal school privileges." Historian Quintard Taylor underscores the importance of education to black westerners considering it "the premier weapon in the campaign for both economic advancement and racial equality."[38]

School segregation was a fact of life throughout much of the U.S. West by the end of the nineteenth

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[35]Eleanor M. Ramsey and Janice S. Lewis, "A History of Black Americans in California," in *Five Voices: An Ethnic History Site Survey for California* (Sacramento: California Department of Parks and Recreation, 1980), 61-62; Quintard Taylor, *In Search of the Racial Frontier: African Americans in the American West, 1528-1990* (New York: W. W. Norton, 1998), 91-92.

[36] Charles Wollenberg, *All Deliberate Speed: Segregation and Exclusion in California Schools, 1855-1875* (Berkeley: University of California Press, 1976), 14; Ramsey and Lewis, "Black Americans in California," 84.

[37] Quintard Taylor, *In Search of the Racial Frontier*, (New York: Norton, 1998), 209, 215-216, 219.

[38] *Ibid*., 202, 215-217.

century, but legal challenges continued as both African Americans and Chinese immigrants pushed for educational opportunities for their children. In 1872 Harriet Ward attempted to enroll her daughter Mary Frances in an all-white school in San Francisco. When the principal refused to admit her, Ward filed suit. *Ward v. Flood* (1873) was California's first case challenging educational segregation. However, the California Supreme Court, in its ruling, foreshadowed the logic of the U.S. Supreme Court in *Plessy v. Ferguson* (1896); in using the principle of "separate but equal."[39]

Despite the legal approval of educational segregation, African American leaders were heartened by *Ward v. Flood* in that the court affirmed the right of African Americans to public education. In 1875, the San Francisco school board integrated African Americans into the local public schools and five years later, Political Code 1662 was significantly amended dropping race as a qualifier for public education.[40] An excerpt from the revised state school law reads as follows:

> Every school. . .must be open for the admission of all children between six and twenty-one years of age residing in the district. . .Trustees shall have the power to exclude children of filthy or vicious habits, or children suffering from contagious diseases.[41]

This measure represented a milestone for as historian Charles Wollenberg contends, "blacks never again were specified in the school law and thus never again subjected to de jure (legal) segregation." De facto (by fact) segregation, however, remained.[42] While the *Ward* decision and the actions of the San Francisco school board seem contradictory, taken together they point out "the difference between segregation as a judicially justifiable principle and segregation/integration as a matter of school policy, the latter being more likely to depend on considerations of financial cost."[43]

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[39] *Ibid*., 215; Ramsey and Lewis, "Black Americans in California," 63; Wollenberg, *All Deliberate Speed*, 22-23.

[40]Wollenberg, *All Deliberate Speed*, 23-25; Victor Low, *The Unimpressible Race: A Century of Educational Struggle by the Chinese in San Francisco* (San Francisco: East/West Publishing Co., 1982), 50.

[41]*The Unimpressible Race*, 64.

[42] Wollenberg, *All Deliberate Speed* 25-26. In 1890 the California Supreme Court ruled in *Wysinger v. Crookshank* that the Visalia school district had to admit an African American to the all-white school. The court held that while legislation could mandate segregation, local school boards could not.

[43]Peggy Pascoe (2000, May, 6). Desegregation Peer Review. National Park Service Electronic Mail, ppascoe@darkwing.uoregon.edu. Thank you to Peggy Pascoe for noting the contrast and the contributing reason with her insightful critique.

Asian American

The Chinese community took notice of the 1880 revision of the state school law. Since 1859 Chinese children had generally been taught in private missionary schools, such as the one operated by the Presbyterian Board of Home Missions. Segregated public education for the Chinese consisted of a rented room with a single teacher and even this so-called school closed its doors in 1871. Emphasizing their position as taxpayers who supported public education, Chinese merchants and their compatriots petitioned the state assembly to establish schools for their children, but to no avail. In 1885, the case of *Tape v. Hurley* would force local and state officials to address public education for Chinese youth. In 1884, Joseph and Mary Tape, both immigrants from China, attempted to enroll their U.S. born daughter Mamie into the neighborhood public school. Principal Jennie Hurley refused admittance and the Tapes filed suit.[44]

The Tapes were an unusual middle-class Chinese couple. Joseph Tape was an expressman, drayman, and interpreter for the Chinese consulate. Arriving in 1869, he quickly adopted western fashion and customs, as well as Christianity. His wife Mary grew up in a Shanghai orphanage and arrived in San Francisco under the auspices of Protestant missionaries. Fluent in English and Chinese, Mary Tape was well educated for her time and displayed talents as a "photographer, painter, and telegraph operator." The Tapes sought to give their four U.S. born children every advantage, including a public education with their European American neighbors. Given that Mamie came from a thoroughly acculturated Victorian family, that she was U.S. born, that she spoke English with greater ease than Chinese, and that in 1880 the school code had been amended, the Tapes pursued their case vigorously.[45]

The state Superior Court confirmed the right of Mamie Tape to attend the neighborhood school. In the words of Judge Maguire:

> The Fourteenth Amendment. . .secures equal protection, rights and privileges of every nature to all persons born within the United States. . .Our Legislature has enacted that all children within the State shall have equal facilities for education, so far as regards the right to attend the public schools. To deny a child, born of Chinese parents in this State entrance to the public schools would be a violation of the law of the State and the Constitution of the United States. . .The Board of Education have ample power to keep out all children who are blighted by filth, infection or contagion…but any such objection should be personal to each particular child... without regard to its race or color. In the case at bar, it is admitted that child is healthy and of cleanly habits. . .and her application for admission as a pupil in the Spring Valley School is proper and lawful and must be granted.[46]

Unbowed by this early application of the Fourteenth Amendment, the school board appealed, but two months later; the California Supreme Court upheld the ruling of the lower court. Within the city of San Francisco, school board members and Superintendent Andrew Jackson Moulder reflected the xenophobia against the Chinese that three years earlier had culminated in the Chinese Exclusion Act.

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[44] Low, *The Unimpressible Race*, 13; Charles J. McClain, *In Search of Equality: The Chinese Struggle Against Discrimination in Nineteenth-Century America* (Berkeley: University of California Press, 1994), 134-136; Patricia Hogan, "*Tape v. Hurley*," in Charles Phillips and Alan Alexrod, eds., *Encyclopedia of the American West* (New York: Macmillan, 1996), 1536-1537; Judy Yung, *Unbound Voices: A Documentary History of Chinese Women in San Francisco* (Berkeley: University of California Press, 1997), 171, 173.

[45] Yung, *Unbound Voices*, 171; Low, *The Unimpressible Race*, 63; McClain, *In Search of Equality*, 141.

[46] Low, *The Unimpressible Race*, 62.

Moulder himself fervently believed that the Chinese were a threat to Caucasian civilization. According to legal scholar Charles McClain, Moulder held particularly virulent views toward Chinese women, considering them "all prostitutes...[who] only wanted to attend school so that they could learn English and thereby increase their market value."[47] While awaiting the decision by the California Supreme Court, Moulder took no chances and lobbied the legislature for a measure that would amend the 1880 school code. With resounding consensus, California legislators responded with the following 1881 revision to Political Code 1662. After the phrase noting "infectious diseases," came the passage "and also to establish separate schools for children of Mongolian or Chinese descent. When such separate schools are established Chinese or Mongolian children must not be admitted into any other schools." As a result, several months later, the Chinese Primary School opened its doors in San Francisco, thus ending all recourse for Mamie Tape to attend her local school. For Chinese residents of the city by the Bay, "separate but equal" remained the order of the day.[48]

An outraged Mary Tape wrote an impassioned letter to the San Francisco school board, a letter that also appeared in a local newspaper. "Dear sirs, Will you please tell me! Is it a disgrace to be Born Chinese? Didn't God make us all!!!" She continued:

> May you Mr. Moulder never be persecuted like the way you have persecuted little Mamie Tape. Mamie Tape will never attend any of the Chinese schools of your making! Never!! I will let the world see sir What justice there is When it is govern by the Race prejudice men![49]

Belying notions of both the fragile, submissive Victorian lady and of the secluded Chinese middle class wife, Mary Tape, as noted by historian Judy Yung, "shines as an early example of an emancipated Chinese American woman." Tape did revisit her position as Mamie and her brother Frank became two of the first children to enroll in the Chinese Primary School. Indeed, the segregation of Chinese children in northern California continued into the twentieth century.[50]

Mexican American

Life for settlers in Mexico's far northern frontier changed dramatically in 1848 with the conclusion of the U.S.-Mexican War, the discovery of gold in California, and the Treaty of Guadalupe Hidalgo. Mexicans on the U.S. side of the border, even some who had wealth and identified as "Spanish" became second class citizens, divested of their property, political power, and cultural entitlements. Their world turned upside down. Segregated from the European American population and subject to pejorative stereotypes and violence, Mexican Americans in the barrios of the Southwest sustained their sense of identity and cherished their traditions. With little opportunity for advancement, Mexicans were concentrated in lower echelon industrial, service, and agricultural jobs.[51]

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[47] *Ibid.,* 60-64, McClain, *In Search of Equality*, 141.

[48] Low, *The Unimpressible Race*, 67; Yung, *Unbound Voices*, 175.

[49] *Ibid*., 174-175.

[50] *Ibid*., 175; McClain, *In Search of Equality*, 143.

[51] Albert Camarillo's *Chicanos in a Changing Society: From Mexican Pueblos to American Barrios in Santa Barbara and Southern California, 1848-1930* (Cambridge: Harvard University Press, 1979) provides the most comprehensive treatment of the downward mobility among Mexicans in the Southwest after 1848. For more information on the failing fortunes of elite Californios, see Douglas Monroy, *Thrown Among Strangers: The Making of Mexican Culture in Frontier California* (Berkeley and Los Angeles: University of California Press, 1990), 192-193. The impact of the U.S. conquest on Spanish-speaking women is powerfully illuminated in Deena J. González's

During the late nineteenth century for Mexican Americans, education, when available, often boiled down to a private versus public debate. Parochial institutions traditionally served as the primary means of formal education as well as religious instruction. The Mexican American elite in Texas, for example, sent their daughters to the Ursuline Academy. By the 1870s in Brownsville, Texas, Catholic boarding and day scholars attended sex-segregated facilities, such as Incarnate Word for girls and St. Joseph's College for boys. Smaller Catholic schools enrolling local parishioners were sprinkled throughout the Southwest. In South Texas, Protestant educators also made their mark. Supported by home mission funds, a Presbyterian Mexican school located in Brownsville offered free tuition thus attracting a sizable number of students. Although Catholic parents may have been understandably concerned about Protestant messages within class lessons, education for their children was an overriding priority.[52]

In the early 1870s, Jacinto Armijo, a territorial legislator in New Mexico, introduced a bill providing for public education. His measure stirred a storm of controversy. Catholic priests in New Mexico voiced intense opposition and even Archbishop Lamy of Santa Fe "threatened to withhold the sacraments from children who attended these coeducational secular schools." Father Gasparri, editor of *La Revista Católica* and himself an ardent foe of woman's suffrage, articulated his concern. Coed classrooms would "remove any brakes to contain the passions of the human heart." Although they couched their opposition in moral terms, local clerics realized that free public education provided an alternative to parochial school tuition.[53]

In 1871, Don Estevan Ochoa met similar clerical concerns when the Safford-Ochoa Act, which provided for public schools, was approved by the Arizona territorial legislature. Perhaps to quell criticism, state-supported schools in Tucson were initially same-sex facilities. However, Mary Bernard Aguirre, one of Arizona's first school marms, described her charges at the Tucson Public School for Girls as 'the most unruly set the Lord had ever let live' and she attributed their behavior to the 'violent opposition to the Public Schools from Catholic priests.' Far from being shy and retiring, the former St. Louis belle, who was also the widow of a Mexican rancher, engaged in a contest of wills with her Catholic pupils. With a steely persistence, she continued to teach and in time commanded the community's respect. "I was pretty well known thro'[sic] Arizona and Sonora, then," she noted. "So . . .by degrees some of the better Mexican families sent their girls to me and finally the priest's nieces came to me and that settled the matter." Mary Bernard Aguirre acted as a bridge person, someone who traveled both in European American and Mexican circles. Yet, her role seemed circumscribed by class as she frequently used the phrase "the better Mexican families" in the text of her narrative. Despite a flurry of protests, public education had come to stay in the Southwest and in the following decades, Mexican American and Mexican immigrants alike sought equitable educational opportunities for their children.[54]

Refusing The Favor: The Spanish-Mexican Women of Santa Fe, 1820-1880 (New York: Oxford University Press, 1999).

[52] Guadalupe San Miguel, Jr., "*Let Them All Take Heed": Mexican Americans and the Campaign for Educational Equality in Texas, 1910-1981* (Austin: University of Texas Press, 1987), 8-10; Richard Griswold del Castillo, *The Los Angeles Barrio, 1850-1890:A Social History* (Berkeley: University of California Press, 1979), 89. For more information on Mexican parental attitudes toward Protestant schools and social services, see Vicki L. Ruiz, "Dead Ends or Gold Mines?: Using Missionary Records in Mexican American Women's History," *Frontiers* 12:1 (1991): 33-56.

[53] Richard Griswold del Castillo, *La Familia: Chicano Families in the Urban Southwest, 1848 to the Present* (Notre Dame: University of Notre Dame Press, 1984), 81, 83-84.

[54] Alleen Pace Nilsen with Margaret Ferry and L. J. Evans, eds., *Dust in our desks: territory days to the present in*

For rural Tejanos, rancho schools were the order of the day. With classes conducted in crude jacales (shacks), students were hampered by limited materials and poorly trained teachers. Similar to their African American neighbors, Tejanos began to experience segregation, but segregation based on neighborhood, language as well as stereotypes. School segregation of Mexican Americans was implemented by local district rules rather than by legislative fiat. At times policies of exclusion were couched in terms of language differences, but comments about smelly, lice-infested Tejano children also found their way into the rationale of board members. In El Paso, Texas, Mexican Americans encountered segregation from the first days of public education. The school board in 1883 barred admission to children who failed to demonstrate proficiency in English.[55]

Olivas Aoy, a Spanish senior citizen, decided to take matters into his own hands. In 1887, he opened a modest school in El Paso's Segundo Barrio with the intent of preparing youngsters to transition into the local public school system. His escuelita (little school) grew in popularity to the extent that the El Paso board agreed to underwrite his efforts and the Mexican Preparatory School was established. Aoy's facility would now provide instruction through the first four grades. Although Aoy died in 1895, his legacy continued. Due to rising enrollments, a new building was erected in Segundo Barrio appropriately christened Aoy Elementary and by 1900 it housed over five hundred children. Olivas Aoy's dream of his school as the first leg of a long educational journey went unrealized as the majority of pupils who completed the fourth grade did not continue their studies, but instead took jobs to help feed their families. Despite restricted opportunities, Tejanos valued education and a small group negotiated the system to become teachers themselves, educators who would labor in segregated schools for decades to come. Reflecting on schooling for Texas Mexican Americans at the turn of the twentieth century, education scholar Guadalupe San Miguel commented that "schools were usually segregated,

Arizona schools (Tempe: ASU Centennial Commission and College of Education, 1985), 6; Mary Bernard Aguirre, "Public Schools of Tucson in the 1870s," Aguirre Family Papers, Arizona Historical Society Library, Tucson, Arizona. To control her class, she was a strict disciplinarian who used corporal punishment. In her words: "But my troubles in the first year were many and sore."

[55] San Miguel, Jr., "*Let Them All Take Heed,"* 12, 54-55; Mario T. García, *Desert Immigrants: The Mexicans of El Paso, 1880-1920* (New Haven: Yale University Press, 1981), 110.

overcrowded, and lacked adequately trained teachers. . ." He continued, "Despite their deficiencies, Tejanos flocked to them for knowledge."[56]

Native American

One of the first boarding schools for Native Americans was not created by the federal government, but by the Cherokee National Council of Oklahoma. Founded in 1851, the Cherokee Female Seminary (National Register, 1973) was intended to provide schooling for the daughters of elite mixed-bloods and after 1871 the children of less affluent full-bloods with a curriculum similar to Mt. Holyoke College. Students took courses in Latin, French, trigonometry, political economy, and literary criticism (to name a few). From Homer to Shakespeare, these young women received a very traditional upper crust course of study, a curriculum that precluded any discussion of Cherokee culture or language. Pupils staged dramatic productions, held "music recitals, and published their own newsletter evocatively entitled *A Wreath of Cherokee Rosebuds*. Entrance requirements included an academic examination and, while less affluent full-bloods from the reservation schools did enroll, their graduation rate proved almost non-existent with only two full-blood graduates over five decades. Perhaps due, in part, to inadequate elementary schooling as well as color and class hierarchies, full-bloods were often uncomfortable in a world where their lighter-complexed peers referred to themselves as "progressive" Cherokees.[57] In the words of historian Devon Mihesuah:

> Even progressive mixed-blood girls who were dark-skinned faced prejudice. Florence Waters. . .was told by a lighter-skinned classmate that she could not participate in the elocution class production of *The Peri* because 'angels are fair-haired and you are too dark for an angel.'[58]

Mihesuah eloquently draws out these contradictions and in the process demonstrates the ways in which this institution helped shape an acculturated Cherokee identity in which young graduates "became educators, businesswomen, physicians, stock raisers, and prominent social workers." An 1888 graduate Rachel Caroline Eaton pursued a baccalaureate and then went on for a Ph.D. in History at the University of Chicago. The author of four books on Oklahoma, two on the Cherokees (e.g. *Domestic Science Among the Primitive Cherokee*), Eaton taught at several colleges including Trinity University in San Antonio where she also chaired the History department. Responding to tribal criticisms that the seminary students were ill prepared to take their places as farmers' wives, the curriculum shifted somewhat by 1905 to include classes in "domestic science" with the two Cs--cooking and cleaning--predominately featured. Across five decades, over 3,000 young women had attended the Cherokee Female Seminary, and their lives there "helped to strengthen their identities as Cherokees although there was differences in opinion as to what a Cherokee really was." As Devon Mihesuah further reveals, "To many Cherokees, the old female seminary building, which now stands on the campus of Northeastern State University. . .remains a symbol of adaptation and progress in a changing, and often inhospitable world."[59]

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[56] *Ibid*., 110-111; Arnoldo de León, *The Tejano Community, 1836-1900* (Albuquerque: University of New Mexico Press, 1982), 188-194; San Miguel, Jr., "*Let Them All Take Heed,"* 11.

[57]Devon A. Mihesuah, "Too Dark to Be Angels: The Class System among the Cherokees at the Female Seminary," in *Unequal Sisters: A Multicultural Reader in U.S. Women's History*, 3rd ed., eds. Vicki L. Ruiz and Ellen Carol Du Bois (New York: Routledge, 1999), 186-187, 190-192, 194; Devon A. Mihesuah, *Cultivating the Rosebuds: The Education of Women at the Cherokee Female Seminary, 1851-1909* (Urbana: University of Illinois Press, 1993), 55, 74-75, 83.

[58]Mihesuah, "Too Dark to Be Angels," 190.

[59] Mihesuah, "Too Dark to Be Angels," 195-197; Mihesuah, *Cultivating the Rosebuds*, 101-102, 116.

The legacy of non-reservation boarding schools, however, can be traced to the ideas and efforts of one man: Captain Richard Henry Pratt. A cavalry officer, who had commanded African American troops against American Indians in western campaigns, Pratt developed his notion of assimilation through total immersion while in charge of incarcerated Indians at Ft. Marion Florida.[60] Unlike many of his contemporaries, Pratt did not believe in the innate genetic inferiority of American Indians. For him, environment explained all nature of human existence. In his words:

> It is a great mistake to think that the Indian is born an inevitable savage. He is born a blank, like the rest of us. Left in the surroundings of savagery, he grows to possess a savage language. . .and life… Transfer the infant white to the savage surroundings, he will grow to possess a savage language. . .and habit. Transfer the savage-born infant to the surroundings of civilization, and he will grow to possess a civilized language and habit.[61]

Using the specious analogy that as slavery had assimilated African Americans, Pratt contended that non-reservation boarding schools could accomplish the same result for indigenous peoples. In 1879, Pratt got his chance to test his experiment--an old army barracks in Pennsylvania was transformed into the Carlisle Indian School (National Historic Landmark, 1961).[62]

With Pratt as both founder and superintendent, Carlisle became the model for federal Bureau of Indian Affairs (BIA) boarding schools that proliferated across the Midwest and Southwest during the late nineteenth century. By 1902, there existed 25 federally supported, non-reservation boarding schools for American Indians across 15 states and territories with a total enrollment of 6,000 students.[63] In Alaska, the federal government tended to support mission schools given the fact that the amount of money appropriated could not underwrite the establishment of a public school system. The First Organic Act of 1885 passed by the U.S. Congress called for the "provision for the education of children of school age in the Territory of Alaska without reference to race." Four years later, a combination of public and federally funded private schools could be found in selected settlements. Two boarding schools at Sitka and Wrangell were also created with the express purpose of providing manual and domestic training for a select group of Alaska Native children; those considered "the brightest boys and girls."[64] Certainly this vocational bent was in accord with the curriculum at Carlisle.

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[60]Robert A. Trennert, Jr., *The Phoenix Indian School: Forced Assimilation in Arizona, 1891-1935* (Norman: University of Oklahoma Press, 1988), 5; L. Tsianina Lomawaima, *They Called It Prairie Light: The Story of the Chilocco Indian School* (Lincoln: University of Nebraska Press, 1994), 4; David Wallace Adams, *Education for Extinction: American Indians and the Boarding School Experience, 1875-1928* (Lawrence: University of Kansas Press, 1995), 38-43, 51-53. Pratt favored water metaphors in describing his vision for assimilation using such phrases as "immerse him in civilization and keep him there until well-soaked." Lomawaima, *They Called It Prairie Light*, 4.

[61]Adams, *Education for Extinction*, 52.

[62]Lomawaima, *They Called It Prairie Light*, 4.

[63]Trennert, *Phoenix Indian School*, 8; Adams, *Education for Extinction*, 57-59. The distribution of non-reservation boarding schools was as follows: Arizona (2), California (3), Colorado (2), Kansas (1), Michigan (1), Minnesota (2), Montana (1), Nebraska (1), Nevada (1), New Mexico (2), Oklahoma (1), Oregon (1), Pennsylvania (1), South Dakota (4), and Wisconsin (2).

[64]Charles R. Ray, Executive Director, Alaskan Native Education Project of the University of Alaska, *A Program of Education for Alaskan Natives: A Research Report* (Anchorage: University of Alaska, 1959), 21-24, 27-26. In 1895 federal support for Alaskan church schools ended.

Replicated at other sites, the Carlisle curriculum emphasized vocational training for boys and domestic science for girls. In addition to reading, writing, and arithmetic, Carlisle students learned how to make harnesses, shoe horses, sew clothes, do laundry, and craft furniture and wagons. Given the fact that the federal government funded the boarders' education at $167 per student per year, it is no surprise then that American Indian children, some as young as six years of age, put in long hours providing items for school use and for the market. According to education scholar David Wallace Adams, Carlisle in 1881 "reported producing 8,929 tin products, including cups, coffee boilers, pans, pots, and funnels, 183 double harness sets, 161 bridles, 10 halters, 9 spring wagons, and 2 carriages. . .[with] a total value of $6,333.46." Pratt at one point commented that the Carlisle girls could launder and iron "about 2,500 items each week in a 'very credible manner.'" Carlisle also pioneered the system of outing, that is the summer placement of young people in the homes of neighboring farmers or townspeople so that in exchange for their labor, the children would continue to receive lessons on living in white society in addition to earning a small wage. As a practice, outing, in many instances, did not conform to Pratt's idealized pronouncements.[65] Although Adams contends that despite complaints, "most students' letters indicated satisfaction" with outing, the following missives by Carlisle youth demonstrate the diversity of experiences.

> I am up in my cosy room. I love this place, they are so kind. I have a good kind father and mother. . .here.
> She always calls us Dunce, careless, lazy, ugly, crooked, and have no senses. I have never heard anybody call me that before.[66]

In the West, outing usually represented a form of cheap labor for neighboring residents without any gloss of benevolent Americanization. As the superintendent of the Phoenix Indian School, Harwood Hall, commented, "The hiring of Indian youth is not looked upon by the people of this valley from a philanthropic standpoint. It is simply a matter of business." Indeed, as historian Robert Trennert notes, the Phoenix Indian School became "the major source of domestic labor" for area residents.[67]

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[65] Trennert, *Phoenix Indian School*, 7-9; Lomawaima, *They Called It Prairie Light*, 4-5; Adams, *Education for Extinction*, 149-150, 155-162.

[66] Adams, *Education for Extinction*, 160-162.

[67] Trennert, *Phoenix Indian School*, 52-54. Even Pratt himself acknowledged the failure of outing in western schools. Adams, *Education for Extinction*, 162.

How were children recruited or lured into boarding school life? What were the fears and motivations of their parents? For Carlisle's first cohort, Capt. Pratt and Sarah Mathers, a Mt. Holyoke-educated teacher, gathered children among the Sioux and Apache. Major Haworth, the person in charge of the Chilocco Indian Industrial School in Oklahoma, traveled far and wide in search of pupils among the Cheyenne, Comanche, Arapaho, Kiowa, and, closer to the school, the Pawnee. Anthropologist K. Tsianina Lomawaima remarks that the Major "had to persuade parents to give up their children to the care of the federal government and place them on a wagon train. . .in the dead of winter." Later, a few select Chilocco students, in the company of teachers, would themselves venture to distant reservations to expound upon the benefits of their school. [68] For some students, temptation came not in flowery testimony, but in the form of good, old-fashioned candy. As Luther Standing Bear (Lakota), one of Carlisle's first students, recalled:

> When they saw us peeping in at the window, they motioned for us to come inside. But we hesitated. Then they took out some sticks of candy. . .and that was a big temptation. We came inside very slowly, one step at a time, all the time wondering what it meant.[69]

Although federal legislation mandated compulsory schooling for American Indians, children could not be taken off reservations without "the full consent" of their parents. How consent was obtained at times amounted to pure coercion, even violence. In 1892, Indian agent S. J. Fischer at Ft. Hall, Idaho did not disguise his use of force in procuring children, even physically assaulting "a so-called chief into subjection" [his words]. At some reservations, quotas were set in terms of numbers of children to be enrolled in boarding schools, with Indian policemen given the detail of deciding which children would be sent from which family. As Adams reveals, these law enforcement officials "might put the agonizing question to a mother "which child to give up, which to hold back?" Thomas Premo, a western Shoshone, recalled the pain of separation. "As they were being hauled away on a buggy their mothers ran behind them, crying, as far as the direction of Cold Springs [. . .some eight miles from the agency]. . ." Meanwhile, for orphans, there existed few alternatives other than boarding schools.[70]

Some parents resisted sending their children by running away from the reservation or hiding their sons and daughters. Given the higher mortality rates in boarding schools, they feared for their children's health and certainly they realized that if their children traveled to a distant state, years would pass before they would be reunited. Conversely, if the school was in close proximity, as was the Phoenix Indian School in relation to the Pima and Maricopa, for example, this decision could be less wrenching. Other parents coped with separation by holding fast to the belief that they were giving their daughters or sons an opportunity to succeed in the white world; that the education they would receive at Carlisle, Haskell (NHL, 1966) or Phoenix was infinitely superior to the one at home; and that the overall quality of life would be better than the daily suffering that stalked reservations. Parental aspirations, however well founded or ultimately misplaced, can be discerned in the following passage taken from a father's letter to his daughter. "Why do you ask for moccasins? I sent you there to be like a white girl and wear shoes?"[71] Boarding school experiences would continue to have a profound impact on generations of

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[68] Adams, *Education for Extinction*, 142-148; Lomawaima, *They Called It Prairie Light*, 9-10.

[69] Adams, *Education for Extinction*, 97.

[70] *Ibid.*, 63-65, 211, 216; Steven J. Crum, *The Road on Which We Came: A History of the Western Shoshone* (Salt Lake City: University of Utah Press, 1994), 55; Brenda J. Child, *Boarding School Seasons: American Indian Families, 1900-1940* (Lincoln: University of Nebraska Press, 1998), 17-19.

[71] Adams, *Education for Extinction*, 210-217, 241, 248-251, Trennert, *The Phoenix Indian School*, 48-49; Child, *Boarding School Seasons*, 16-17, 20. Trennert contends that central Arizona Indians developed a fierce loyalty to the Phoenix Indian School, considering it "their school."

American Indian children.

THE BIRTH OF THE JIM CROW SOUTH, 1877-1900

In the South, most whites after the war wanted no education whatsoever for blacks. They resented paying taxes for black education. They feared African American schooling would destroy white supremacy, and that educated blacks would refuse fieldwork and domestic service and, instead, compete with whites for higher-paying jobs with better working conditions. To deter black education, especially any that smacked of mixed or integrated schooling, Southern whites sometimes refused to rent rooms to Northern teachers of African American students, and ostracized, even whipped, and drove them out of town. They destroyed schoolbooks and put schoolhouses to the torch--thirty-seven in Tennessee alone in 1869.[72]

The Reconstruction constitutional conventions of just Louisiana and South Carolina provided for legally unsegregated schools, although the legislators there had affirmed that the two races would of their own accord go to separate schools. Only in New Orleans did African American and white students attend mixed schools. Throughout the rest of the South, segregation in education was required either by legislation or by administrative policies set by school boards. To remedy this situation, Senator Charles Sumner of Massachusetts introduced new civil rights legislation in 1870 that prohibited racial segregation in a wide variety of public accommodations, and in public education. Southern Republicans, in particular, feared that mandating desegregated schools would drive whites out of the party and cripple the region's fledgling public schools by undermining white support for public education. After five years of debate, the bill became law in 1875 only after the key provisions concerning church and school integration had been deleted.[73]

The tide of racial equality in national politics receded, and the adoption of "Jim Crow" laws in the South officially separating the races on trains, in depots, and on wharves began. After 1875, the more than 90 percent of African Americans still living in the South endured even more statutes banning blacks from barber shops, hotels, restaurants, and theaters that served whites. Jim Crow legislation and de facto practices constituted a complete system of segregation designed to isolate and degrade blacks; and the segregated education for African Americans that white Southerners grudgingly accepted was a means to obtain a trained yet subservient, industrious but contented, work force. It was education to subordinate and control blacks, education to perpetuate a separate and unequal social order grounded in white fear and greed.[74]

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[72] Allen Trelease, *White Terror: The Ku Klux Klan Conspiracy and Southern Reconstruction* (New York: Harper & Row, 1971); Foner, *Reconstruction*, 207-208; Vaughn, *Schools for All*, 27-37; Lawrence D. Rice, *The Negro in Texas, 1874-1900* (Baton Rouge: Lousiana State University Press, 1971), 211-214; and George C. Rable, *But There Was No Peace: The Role of Violence in the Politics of Reconstruction* (Athens: University of Georgia Press, 1984).

[73] Foner, *Reconstruction*, 320-322, 365-368, 553-555, 592-593; Vaughn, *Schools for All* , 85-102; Louis R. Harlan, "Desegregation in New Orleans Public Schools During Reconstruction," *American Historical Review*, 67 (April 1962), 663; Dale A. Somers, "Black and White in New Orleans: A Study in Urban Race Relations," *Journal of Southern History* 40 (1974), 19-21; and John Hope Franklin, "Jim Crow Goes to School: The Genesis of Legal Segregation in Southern Schools," *South Atlantic Quarterly* 58 (Spring 1959), 227-228, 230-235. The public school integration experiment in New Orleans lasted about six years, involved some 20 percent of the city's black students, and was destroyed by ferocious white opposition.

[74] Taking their name from a character in a minstrel song popular in the 1830s, and first applied to cars set aside for blacks on Massachusetts railroads in the 1840s, the Jim Crow laws were legislation enacted to mandate segregation, the separation of the races, in public transport, parks, restaurants, cemeteries, other public places, and education. Valeria W. Weaver, "The Failure of Civil Rights, 1875-1883 and Its Repercussions," *Journal of Negro History* 54

With the Southern states after Reconstruction controlled by the former masters of the freedmen, white school boards and superintendents provided as little as possible for black education, contending that African Americans paid fewer taxes and did not need more than the most minimal learning. Funding for public education was drastically reduced in the 1880s, and by the turn of the century African Americans received only some 12 percent of public school funds although they constituted about one-third of the school-age population in the South. Florida in 1898 appropriated $5.92 per capita for white education and $2.27 for the education of blacks; South Carolina $3.11 and $1.05 respectively. In 1900, Adams County, Mississippi, spent $22.25 for the schooling of each white student and just $2 per black, and the gap would continue to widen for the next third of a century. Summing up the prevailing white attitude, Governor Allen D. Chandler of Georgia stated "I do not believe in the higher education of the darky. He should be taught the trades, but when he is taught the fine arts he gets educated above his caste and it makes him unhappy." As A. A. Kincannon, the Mississippi superintendent of education readily confessed in 1899, "our public school system is designed primarily for the welfare of the white children of the state and incidentally for the negro children." Thus, on average, Southern black teachers received one-third the salary of white teachers, and their students went to school 59 days less than their white counterparts, in order that they be available during the plantations' planting and harvesting times. Not infrequently, a church basement or vacant store served as the African American schoolhouse. Few public high schools for blacks even existed.[75]

But never just a passive mass waiting to be acted upon, African Americans did all they could to survive, fight for their due, and advance as a people. However bleak the post-Reconstruction era, characterized by most historians as the nadir in race relations and African American life, blacks did what they could to maintain their rights and hopes. They joined betterment organizations, started businesses, migrated, entered the professions, and, above all, pursued education. To that end, with money borrowed from teachers, George L. White, the treasurer of Fisk University, took a group of students to Oberlin in 1875 to sing spirituals and work songs to the National Council of Congregational Churches meeting there. The proceeds raised at Oberlin then financed other singing engagements. Within seven years the performing students had raised more than $150,000 to finance new buildings and programs at Fisk. Other schools sent out student quartets and speakers to solicit contributions.

Every African American religious denomination founded schools. Black Methodists in the AME and CME established ten colleges. Negro Baptists in 1900 supported eighty elementary and secondary schools, and eighteen institutions of college or semi-college rank. Black Congregationalists and Presbyterians also operated their own schools. African American parents sacrificed, and sacrificed yet more, to give their children the education that they had been denied. More than ever before, they viewed education as the principal means to full participation in society, the single most effective means of escaping the indignities and restrictions then being heaped upon blacks by whites.[76]

(1969); Joseph H. Cartwright, *Triumph of Jim Crow: Tennessee Race Relations in the 1880s* (Knoxville: University of Tennessee Press, 1976), 18, 175-176, 182; George C. Wright, *Life Behind a Veil: Blacks in Louisville, Kentucky, 1865-1930* (Baton Rouge: Lousiana State University Press, 1985), 50-51, 65; and J. Morgan Kousser, *Dead End: The Development of Nineteenth Century Litigation on Racial Discrimination in Schools* (1986), 20-21, 38.

[75] Louis R. Harlan, *Separate and Unequal: Public School Campaigns and Racism in the Southern Seaboard States, 1901-1915* (Chapel Hill: University of North Carolina Press, 1958), 9-15, 40, 69-74, 130-138, 166-167, 204-207, 248-255; Anderson, *The Education of Blacks in the South*, 100-101; Neil R. McMillen, *Dark Journey: Black Mississippians in the Age of Jim Crow* (Urbana: University of Illinois Press, 1990), 72-74; Wright, *Life Behind a Veil*, 59-62, 70-74; and Berry and Blassingame, *Long Memory*, 264-265.

[76] Anderson, *The Education of Blacks in the South*, 100-101.

No one put greater stock in education as the way to uplift the race than Booker Taliaferro Washington. No black institution of education took more to heart its mission of elevating the race than Tuskegee Institute. The son of a slave mother and unidentified white father, Washington had arrived at Hampton Institute in 1872 with just 50 cents in his pocket. A hungry-to-learn young man of sixteen, he eagerly imbibed Samuel Chapman Armstrong's ideas of practical education as the way "to lift up the people." By the time Washington graduated, he believed that for the race to succeed it must possess the habits and skills to provide a useful service needed by the nation. Armstrong then put his prize convert, the very embodiment of his philosophy, in charge of the Hampton division that trained Native Americans: "a sort of house father," said Washington, "to a hundred wild Indians." When asked to suggest a person to start a school in Alabama similar to his own, Armstrong immediately recommended Washington.[77]

In 1881, Washington traveled to Tuskegee to conciliate local whites hostile to the idea of a normal school for African Americans, and to begin to secure the resources necessary for such an educational institution. Within weeks of his arrival he was joined by another Hampton graduate, a young teacher named Olivia Davidson. While she organized bake sales and potluck suppers to raise money for the school, Washington rode around Macon County recruiting students. In a dilapidated shanty next to the Negro Methodist Church on Zion Hill, the first thirty students of Tuskegee Institute started classes on Independence Day 1881. They were also put to work growing and cooking the food, and, above all, providing the labor and produce wanted by the white community in a manner that assured it that Tuskegee Institute existed to serve its interests rather than to agitate for equality. It was the start of an institution and career that would make Washington the most influential and powerful black leader of his era.

A product as well as a demonstration of the practical benefits of industrial education, the Institute grew and prospered as a result of the dedicated labor of its students. They produced cash crops of cotton, and made the bricks for dormitories and classroom buildings. In 1883, enrollment reached 169 students, and a year later Tuskegee boasted almost three hundred students and half a dozen buildings. By 1900, when Washington published his autobiography, *Up From Slavery,* Tuskegee had 1,400 enrolled students and more than a hundred instructors. It also featured a brickyard, foundry, and sawmill, two working farms and some 500 head of livestock, and blacksmith, furniture, knitting, machine, print, paint, sewing, and wheelwright shops. The training given students there exemplified Washington's belief in the dignity of labor, and the labor done by them earned money for the further development of the school. Tuskegee had indeed become, as the principal's daughter, Portia Washington, wrote in 1900: "a small village" inhabited and administered by blacks, an "object-lesson" for all African Americans, and a model of Booker T. Washington's philosophy of race relations. Whatever the skin color, he believed, anyone who learned "to do a common thing in an uncommon manner" would be recognized and rewarded. To the extent "the Negro learned to produce what other people wanted and must have, in the same proportion would he be respected." He insisted, "it is the visible, the tangible, that goes a long ways in softening prejudices. The actual sight of a first-class house that a Negro has built is ten times more potent than pages of discussion about a house that he ought to build, or perhaps could build."[78]

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[77] Harlan, *Booker T. Washington*, 54-55, 100-106, 109-110.

[78] Harlan, *Booker T. Washington*, chaps. 6-7; Meier, *Negro Thought in America*, 85-99, 164-165. Horace Mann Bond, *Negro Education in Alabama* (New York: Associated Publishers, 1939) is an important source on Tuskegee Institute, and a good sample of Washington's views is in Emma Lou Thornbrough, ed., *Booker T. Washington* (Englewood Cliffs, NJ, Prentice-Hall, 1969).

Despite Washington's role as an advocate of industrial education, Tuskegee students received more academic than vocational training, and the vocational often emphasized the academic. Students in carpentry had to know how to figure what length of board would suffice for a particular job with the least waste. Someone learning dressmaking had to be able to do the math to know the minimum yards of cloth required to sew dresses of different sizes. Since Tuskegee's mission was largely that of supplying the region with well-equipped teachers, most students took classes in art and music, literature and history, mathematics, and botany and chemistry, as well as some program of practical training, perhaps agriculture for young men, housekeeping and domestic science for young women. In the 1890s, however, Booker T. Washington's third wife, and Tuskegee's Lady Principal, Margaret (Maggie) Murray Washington, insisted that female students also have the option to train as nurses in the new Tuskegee Institute hospital, and to do outdoor work, such as raising poultry and livestock, and growing flowers and vegetables for market. George Washington Carver became the director of Tuskegee's agricultural program in 1896 and made it a world showcase for crop rotation, high-yield crops, and the industrial uses of the by-products of crops such as peanuts. In 1899 Carver began his "Moveable School," a large mule-drawn wagon equipped with the latest farm machinery and exhibits, that brought the lessons of the classroom and laboratory to blacks farming throughout the South.[79]

Whatever the practical benefits Tuskegee supplied to blacks in the South, its fame and influence rested on Booker T. Washington's statements as an apostle of accommodation, and of a special kind of education for African Americans designed to allay white fears and to adjust blacks to a subordinate caste. The preeminent public voice of conciliation and collaboration, whatever his ultimate or private views, Washington urged blacks to "cast down your bucket where you are"--in the South, on the farm, at the bottom. He termed agitation for social equality "the extremist folly," and implied that political rights should be reserved for a few "intelligent Negroes." He deplored lynching, but always in ways not to offend white Southerners. He especially accepted segregation, even in schools in the North. "As the colored people usually live together," Washington assured a worried white, "the process of separation takes place naturally and without the necessity of changing the Constitution."[80]

With this approach during the late nineteenth century, Booker T. Washington successfully appealed to the interests and concerns of northern philanthropists and white southern leaders in promoting a program of industrial education for blacks. At a time of triumphant white supremacy, Washington's ability to secure support for black education was testimony to his brilliant leadership. As Horace Mann Bond has noted, Washington "obtained support from people who otherwise would have been opposed to any kind of education" for blacks.[81]

However, many African Americans resented Washington's philosophy. Some critics thought his views anachronistic. The Texas Colored Teachers' Association in 1900 condemned them as "unjust, illogical, spurious... and entirely out of harmony with the soundest philosophy of the age. We disagree with those who hold that conditions force us to take the lower order of occupations exclusively." Others believed his educational philosophy too narrowly economic in its objectives. With Du Bois, they insisted that "education makes men, not workers." They railed against limiting African American education to industrial education. Describing the necessity for leadership by "The Talented Tenth," Du Bois proclaimed in *The Souls of Black Folk*:

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[79] Harlan, *Booker T. Washington*, chap. 9, 14-15.

[80] Booker T. Washington, *Up from Slavery: An Autobiography* (New York: Doubleday, 1963), 161.

[81] Horace Mann Bond, *Negro Education in Alabama: A Study in Cotton and Steel* (New York: Ateneum, 1969), 217.

> If we make money the object of man training, we shall develop moneymakers but not necessarily men; if we make technical skill the object of education, we may possess artisans but not, in nature, men. Men we shall have only as we make manhood the object of the work of the schools--intelligence, broad sympathy, knowledge of the world that was and is, and of the relation of men to it--this is the curriculum of that Higher Education which must underlie true life.

Some leaders, such as Ida B. Wells, Frederick Douglass, and William Monroe Trotter, condemned Washington's submission to inequality and segregation. African American intellectuals and political activists saw education as a ram to batter down the walls of discrimination. They cheered Du Bois' call in *The Souls of Black Folk* for "ceaseless agitation and insistent demand for equality."[82]

But those who held the purse strings of black education--the white politicians of the South and, most especially, the Northern philanthropists--did all they could to make sure Washington's views held sway. Poor and powerless, most black educators succumbed, becoming increasingly dependent upon white philanthropy. The Peabody Education Fund, the John F. Slater Fund, the Anna T. Jeanes Fund, the Phelps-Stokes Fund, the Julius Rosenwald Fund, and the $50 million given to the General Education Board by John D. Rockefeller, constructed school buildings, bought books, purchased equipment, and paid teachers. The largest gifts went to Tuskegee and Hampton, and schools that followed its lead. The gifts had strings attached. Black education was to be industrial education. Black education was meant to train people to perform manual labor, to serve the needs of whites. It was neither to upset white supremacy nor challenge the racial order, and all involved knew it. William H. Baldwin, a major benefactor of African American schools and influential force in Southern education, advised blacks: "Face the music, avoid social questions; leave politics alone; continue to be patient; live moral lives; live simply; learn to work and to work intelligently... learn that it is a mistake to be educated out of your environment." Or, as he told a conference of white educators, the South needs the Negro but needs him to be suitably educated.

> Properly directed he is the best possible laborer to meet the climatic conditions of the South. He will willingly fill the more menial positions, and do the heavy work, at less wages, than the American white man or any foreign race which has yet come to our shores. This will permit the southern white laborer to perform the more expert labor, and to leave the fields, the mines, and the simpler trades for the Negro.[83]

Thus, at century's end, education for African Americans in the main meant preparation to become self-sufficient artisans in farming and handicrafts, at a time when industrialization and technological change made those occupations as outmoded as obsolete independent yeomen. It also meant legally segregated education. Congressional Reconstruction had promised much. The Civil Rights Act of 1866, designed to overturn the Supreme Court's 1857 *Dred Scott* decision and discriminatory laws, had stated that everyone born in the United States was a citizen with full civil rights. To protect African Americans against a future Congress that might repeal the Civil Rights Act, congressional Republicans had also secured adoption of the Fourteenth Amendment. The amendment guaranteed equal citizenship to all people "born or naturalized in the United States," denied states the right to deprive anyone of "life, liberty, or property without due process of law," defined the rights of citizens, and promised all citizens

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[82] W. E. B. Du Bois, *Souls of Black Folk* (Chicago: A. C. McClurg & Co., 1903), 43-59; Elliott M. Rudwick, *W.E.B. Du Bois, Propagandist of the Negro Protest* (New York: Athenaeum, 1968), 68-86.

[83] Anderson, *The Education of Blacks in the South*, 82, 92-94, 226-229; Harlan, *Separate and Unequal*, 78, 85-88; Bullock, *A History of Negro Education in the South*, 100-102; and Meier and Rudwick, *From Plantation to Ghetto*, 218-220.

the "equal protection of the laws." All American citizens were now vested with the same rights of citizenship that white Americans possessed. Ratified in July 1868, the amendment created a national citizenship with equal rights for all to be enforced by the federal government. Blacks in the South, overall, acquired legal and political rights during Reconstruction that would have been incomprehensible before the Civil War.[84]

Yet, the hopes aroused by the Reconstruction laws and amendments appeared forlorn by 1877. White Southerners did not accept blacks having the same rights they enjoyed, and whites in the North quickly wearied of intervening in southern affairs. The Fourteenth and Fifteenth Amendments would eventually be used by civil rights proponents to win voting rights for blacks and to end legally enforced racial discrimination and segregation--but not for nearly a century. The Supreme Court in a series of far-reaching decisions dismantled one safeguard after another enacted for blacks by the congressional Republicans. In the *Slaughter-House Cases* (1873), the Court ruled 5-4 that the privileges and immunities clause of the Fourteenth Amendment protected only the rights of *national* citizenship, not that of the states. This assertion, that Americans possessed two separate and distinct sets of rights, one deriving from national and other from state citizenship, in effect ruled out invoking the privileges and immunities clause to protect the African American's most basic civil rights, since those were rights of state citizenship. Then the Court in *U.S. v. Cruikshank* (1876) ruled that the Fourteenth Amendment did not give the federal government the right to punish individual whites who oppressed blacks, and in *U.S. v. Reese* (1876) decided in favor of officials who had barred African Americans from voting, claiming that the Fifteenth Amendment did not "confer the right of suffrage on anyone: but merely listed grounds on which states could not deny suffrage." In no uncertain terms, the Court ruled in the *Civil Rights Cases* (1883) that the Fourteenth Amendment forbade only states, not individuals or businesses, from discriminating against blacks. The protections afforded by the Fourteenth Amendment's due process and equal protection clauses were now limited to just official state actions.[85]

The Supreme Court decision in *Plessy v. Ferguson* (1896) emphatically indicated the extent to which the Reconstruction concern for the civil rights and welfare of blacks had been supplanted by the desire to protect business' property rights. The issue at stake was the constitutionality of state segregation laws; in this case a Louisiana statute requiring railway companies to provide separate accommodations for blacks and whites. The extremely influential majority opinion issued by Justice Henry Brown, that would justify segregation for more than half a century, declared that it was an appropriate and reasonable exercise of state legislative authority to provide "separate but equal" facilities. Brown's reasoning rested heavily on the existence of customs, traditions, statutes, and lower court decisions that sanctioned segregation in education. Ignoring a ruling of the Supreme Court of Michigan in 1890 that *Roberts v. City of Boston* (1849), "was made in the antebellum days before the colored man was a citizen, and when, in nearly half the Union, he was but a chattel," and so "cannot now serve as precedent," Brown did just that. According to author Richard Kluger, "playing fast and loose with history" Brown quoted at length Shaw's opinion in *Roberts* and cited six other state court decisions and one by a lower federal court that upheld the establishment of separate schools for white and black

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[84] Harold M. Hyman, *A More Perfect Union: The Impact of the Civil War and Reconstruction on the Constitution* (New York, 1973), 543.

[85] C. Vann Woodward, *The Strange Career of Jim Crow* (3rd rev. ed., New York: Oxford University Press, 1974), 69-82; Howard N. Rabinowitz, *Race Relations in the Urban South, 1865-1890* (New York: Oxford University Press, 1978), 135-136, 331-334; *Slaughter-House Cases*, 16 Wall. 36 (1873); *United States v. Cruikshank*, 92 U.S. 542 (1876); *United States v. Reese*, 92 U.S. 214 (1876); *Civil Rights Cases*, 109 U.S. 3 (1883). Also see Harvard Sitkoff, *A New Deal for Blacks, The Emergence of Civil Rights as a National Issue: The Depression Decade* (New York: Oxford University Press, 1978), 4-13.

children as "a valid exercise of the legislative power." Brown also pointed out that Congress had established segregated schools in the District of Columbia, that its power to do so had not been questioned in litigation, and that similar state legislation had gone unchallenged.[86]

In vain, Justice John Marshall Harlan argued in his dissent that "our Constitution is color-blind, and neither knows nor tolerates classes among citizens." He described the "arbitrary separation of citizens, on the basis of race," as "a badge of servitude wholly inconsistent with the civil freedom and the equality before the law established by the Constitution." Such separation, Harlan concluded, "cannot be justified upon any legal grounds."[87]

Not surprisingly, less than one percent of black youth attended high school in 1890; and two out of three of those students went to private schools, receiving no government financial support. Out of a population of 9.2 million African Americans in 1900, only 3,880 had graduated from universities or professional schools, and less than one-third of 1 percent of the black community (compared to 5 percent of the white population) would go on to college. Yet, as always against great odds, some twenty-five thousand African Americans were teaching more than 1.5 million black children enrolled in school in 1900. One out of two blacks could then read and write, compared to one in twenty-five in 1865; and by 1910, 70 percent of the ten million African Americans were at least functionally literate. Some twenty-one hundred African Americans had graduated from institutions of higher learning, moreover, and another seven hundred were then in the thirty-four colleges for blacks or the increasing number of Northern universities admitting African Americans. Education had led to the development of a self-conscious bourgeoisie: some twenty-five thousand black businesses existed when Booker T. Washington founded the National Business League in 1900. Education had also produced about fifteen thousand ministers, and several thousand more aspiring novelists, historians, scientists, and professors. They would come together in 1897 to found the American Negro Academy, for the purposes of promoting scholarship by blacks and refuting beliefs that demeaned and stereotyped African Americans. Like Du Bois from Fisk, Ida B. Wells of Rust College, and Timothy Thomas Fortune of Howard, many saw themselves as "the Talented Tenth" whose mission was to lead the race. "The Negro race, like all races," Du Bois claimed, "is going to be saved by its exceptional men."[88]

But not in 1900, by then the revolutionary dream of a colorblind Constitution and of a national government committed to guaranteeing all its citizens equal rights had been undone by white Southern opposition and Northern indifference. Once again, the law had become a tool of white supremacy, and constitutional principles the rhetoric to legitimize racial oppression. Yet once again, as the new century began, some African Americans looked to the values embodied in the Constitution and the Declaration of Independence, as others had to attack slavery, to fight racial discrimination and segregation.

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[86] *Plessy v. Ferguson*, 163 U.S. 537 (1896); the Michigan case is *Ferguson v. Gies*, 82 Mich. 358, 46 NW 718 (1890); Kluger, *Simple Justice*, 76-77; and Charles Lofgren, *The Plessy Case: A Legal Historical Interpretation* (New York: Oxford University Press, 1987). For various state laws and constitutional provisions for segregation in education and other public facilities see Richard Bardolph, *The Civil Rights Record, Black Americans and the Law, 1849-1970* (New York: Crowell, 1970), 81-83, 88-92, 132-137; Andrew Kull, *The Color-Blind Constitution* (1992), 95-112; and Kousser, *Dead End*, 10-12.

[87] Kluger, *Simple Justice*, 82. Also see Kull, *The Color-Blind Constitution*, 81-82, 114-115.

[88] Anderson, *The Education of Blacks in the South*, 33-78, 186-198; Franklin and Moss, *From Slavery to Freedom*, 294-295; McPherson, *The Struggle for Equality*, 406-407; Bullock, *A History of Negro Education in the South*, 170-175.

PART TWO: 1900 TO 1950

ALONG THE COLOR LINE, 1900 – 1930s

Plessy v. Ferguson (1896) gave federal legal sanction to racial segregation under the rubric of "separate but equal." Indeed, by the turn of the century, racially segregated public education had become well established by law and custom throughout the United States. Separate, in nearly every case, was decidedly unequal. Children of color, from the rural South to the urban North, from the mid-western plains to the southwestern borderlands, from the bustling metropolis of San Francisco to the far reaches of the northwest, were most often denied access to the resources and educational opportunities available to "white" children. Yet, families and communities worked against these limitations – drawing on their own resources to support the education of their children, migrating in search of more favorable circumstances, and challenging the social,
cultural, and legal constraints that denied them the full measure of their citizenship and humanity.

In the Aftermath of *Plessy*: African Americans in the South

Plessy v. Ferguson had little immediate impact on the educational opportunities of African Americans. Public education in the South was, by and large, already racially segregated. Indeed, if the "equal" principle of "separate but equal" had been applied, the public schooling available to black southerners would have been very different to what it was during the age of Jim Crow. However, three years after the *Plessy* ruling, the U.S. Supreme Court ruled on a case concerning racial discrimination in education which basically disregarded the application of the "separate but equal" principle so far as education was concerned. This ruling, along with the parallel movement to segregate and disfranchise African Americans in the South, made it virtually impossible for African Americans to secure any semblance of equality in the realm of public education.

In July of 1897, the Richmond County School Board voted to close Ware High School in Augusta, Georgia, the only public high school for blacks in the state. Ware, which was founded in 1880, offered a classical curriculum. It was a thriving institution; by 1897, enrollment had doubled. The net cost of Ware to the school board was minimal, since both the white and black public high schools in Augusta charged tuition. Nevertheless, in voting to close the school, the board explained that the funds expended on Ware were needed to support financially strapped black primary schools.[89]

Black leaders in Augusta lead a vigorous protest, arguing that the board's action was in direct violation of an 1872 law. The law required the Richmond County School Board to "provide the same facilities for both [white and Negro children], both as regards schoolhouses and fixtures, attainments and abilities of teachers, length of term time, and all other matters appertaining to education." When the board refused to reverse its decision, several prominent black businessmen financed a legal challenge to the board's action in an effort to keep Ware High School open.[90]

The case ultimately went to the U.S. Supreme Court. George Franklin Edmunds, one of the nation's

[89] J. Morgan Kousser, "Separate but *not* Equal: The Supreme Court's First Decision on Racial Discrimination in Schools," *The Journal of Southern History*, 46 (1980), 17-44.

[90] *Ibid*.,19. Despite the 1872 law, spending on black public education never came close to equaling the public resources allocated to white schools. Facilities available to black students were vastly inferior, and, based on salaries paid to teachers of each race, Morgan Kousser estimates that Richmond County spent three to four times as much on each white as black pupil from 1877-1907. *Ibid*., 24-25.

leading constitutional lawyers, argued *Cumming v. Richmond County Board of Education* (1899) on behalf of the black plaintiffs for no fee. As Morgan Kousser explains, Edmunds argued that "even if the segregation of school children was constitutional – and Edmund's did not challenge it directly in his brief – the opportunities offered students of each race had to be substantially the same, if the court followed the 'equal but separate' rule of *Plessy*. Abolishing Ware was, Edmunds charged, an 'arbitrary denial of the equal protection of the law,' not an action which the Fourteenth Amendment left to the discretion of the school board."[91]

In a unanimous decision, written by Justice John Marshall Harlan, the U.S. Supreme Court upheld the board's action. The Court ruled that "the education of people in schools maintained by state taxation is a matter belonging to the respective States, and any interference on the part of Federal authority with the management of such schools cannot be justified except in the case of a clear and unmistakable disregard of rights secured by the supreme law of the land." Such was not the case with *Cumming*, Harlan concluded. The claimants had not proven that the allegedly discriminatory action was motivated by "hostility to the colored population because of their race."[92]

Harlan's ruling, Morgan Kousser writes, "meant that it would not be possible for a Negro to prove discrimination by demonstrating that whites got a disproportionate share of public benefits." The burden of proof, in terms of the board's motivation, was shifted to the black plaintiffs. They had to prove that race and race alone was the motivation for the school board's action. *Cumming,* in effect, "gave the southern and other states a green light to heighten discrimination in publicly funded activities." It also discouraged blacks from seeking redress in the courts.[93]

During the first decade of the twentieth century, states and localities adopted laws extending segregation into nearly every phase of life regulated by the law. In 1904, the state of Kentucky enacted a statute making it illegal for "any person, corporation or association of persons to maintain or operate any college, school or institution where persons of the white and Negro races are both received as pupils for instruction." Berea College (Lincoln Hall, NHL, 1974), a private, nondenominational institution, challenged this law, arguing that it had a right to maintain a nonsegregated environment both as a citizen and as a property right. In *Berea College v. Kentucky (1908)* the Supreme Court ruled in favor of the state of Kentucky, holding that a corporation only has the rights that a state gives it by law.

As the possibilities for a legal challenge to racial discrimination diminished, new laws and state constitutions effectively barred African Americans from participation in the political process. In 1898, just a year before the *Cumming* ruling, the U.S. Supreme Court upheld Mississippi's new state constitution, which included an array of disfranchisement provisions (*Williams v. Mississippi*). Other states and localities followed suit, enacting laws and constitutional provisions that effectively barred the great majority of African-Americans from voting. Within the next ten years the Fifteenth Amendment, which barred voter discrimination based on race, had been circumvented throughout the former states of the Confederacy.

In the face of such setbacks, African Americans continued in their struggle to secure the promises of citizenship. Education was second only to land ownership as a vehicle of freedom and self-determination. The remarkable increase in literacy among southern blacks stands as testimony to this

[91] *Ibid.*, 35.

[92] *Ibid.*, 17.

[93] *Ibid.*, 39, 42-43.

quest. On the eve of Emancipation, the illiteracy rate for southern blacks was 95%; it dropped to 70% by 1880, and in 1910, it was less than 30%. Nevertheless, the assault on black education during the early decades of the twentieth century challenged even the most resourceful communities. The codification of white supremacy came on a crest of anti-black violence, geared toward maintaining a subordinate and dependent laboring class. A system of separate and unequal schools was a cornerstone of the New South.[94]

The racial gap in public expenditures on education grew apace during the first decade of the twentieth century, as funds were drained away from black education to support the movement to provide universal schooling for southern white children. At least twice as much was spent on the education of white students, as on black students, often the inequities were much greater. In Georgia, less than ten percent of the total allocation for public school buildings, equipment, and library maintenance was spent on black schools. In Mississippi, blacks made up 60 percent of the school-age population, but received only 19% of the state's school funds. In 1900, South Carolina spent $6.51 annually on each white student and $1.55 on each black student. Fifteen years later, expenditures on each white child averaged $23.76 and $2.91 for each black child in school.[95]

In what was often referred to as a "second tax," African Americans drew on their own resources to create and sustain the rudiments of a common school system. In the countryside, where the great majority of black southerners lived, this often meant supplying the building and furnishings, while the county provided a meager salary for the teacher, and possibly some old textbooks. In the Georgia Black Belt, as late as 1910, three-fourths of the black schools met in private homes and churches. NAACP lawyer Charles Hamilton Houston's documentary on conditions in black schools in South Carolina, filmed in the early 1930s, offers a compelling portrait of the conditions rural black communities labored under. Schools were housed in one-room structures, and most were run down and overcrowded. They were sparsely furnished, some with just a couple of benches and no desks. In one school, the students, known as "the broom brigade," were responsible for sweeping out the room, and keeping the schoolhouse tidy.[96]

During the first decade of the twentieth century, school enrollment of school age black children declined. Nearly two-thirds of black children between the ages of five and fourteen did not attend school. Multiple factors contributed to this situation, including location of schools, overcrowding, and limited availability of black teachers. Labor demands, which resulted in shorter school terms for black students, were also a major impediment to regular school attendance by black children.[97]

The color line did not bend to accommodate Asian Americans living in the South. In 1924, Gong Lum, a Chinese-American grocer in Bolivar County, Mississippi sought unsuccessfully to enroll his daughter, Martha, in the local white Rosedale Consolidated High School. He filed a case arguing that his daughter was entitled to admission because she was "not a member of the colored race." The U.S. Supreme Court ruled on the case in 1927. *Gong Lum v. Rice* held that Mississippi's laws divided white children

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[94] Anderson, *The Education of Blacks in the South*, 31, 154-56.

[95] Leon Litwack, *Trouble in Mind: Black Southerners in the Age of Jim Crow* (New York: Alfred A. Knopf, 1998), 106-08; John Dittmer, *Black Georgia in the Progressive Era, 1900-1920* (Urbana: University of Illinois Press, 1980), 144-45.

[96] *Ibid*., Litwack, *Trouble in Mind*, 62; Richard Kluger, *Simple Justice*, 163-65.

[97] Anderson, *Education of Blacks in the South*, 110, 150-53.

from others and that, therefore, "Martha Lum, of the Mongolian or yellow race, could not insist on being classified as white."

From the 1890s through the early decades of the twentieth century a region-wide system of industrial education for blacks developed parallel to the system of private black secondary schools and colleges which maintained a commitment to classical liberal education. As James Anderson has explained, a major goal of supporters of Booker T. Washington's Hampton-Tuskegee model was to "implant industrial and manual training as the primary curriculum in black public schools," which made the field of teacher training an essential area for development. While several small independent schools adopted the industrial model, the philanthropists reaped their greatest success in developing a system of county training schools in rural areas throughout the South, which "filled the void in black education that would have normally been filled by the public high schools."[98]

Starting in the late 1890s, northern philanthropists and foundations, particularly the Anna T. Jeanes Foundation and philanthropist Julius Rosenwald, began providing supplementary support for the building of elementary schools for black students in rural areas around the South. In 1917, with the establishment of the Rosenwald Fund, these efforts became part of a regional campaign to support the development of common schooling for rural southern blacks. Over the next two decades black communities organized around a school building program that, by the mid-1930s, had succeeded in establishing a "viable program of universal education" for rural southern blacks.

The remarkable success of the Rosenwald program was dependent upon the deep and abiding commitment of southern blacks to do whatever they possibly could to secure educational opportunities. Rosenwald Fund regulations for communities receiving funds for school construction mandated that "the sites and buildings of all schools aided by the Fund shall be the property of public school authorities." This, in essence, required that rural blacks deed their money, land, labor, and building materials to the local school system. The Fund also required that people in participating communities raise "an amount equal to or greater than that provided by the Fund." In the end, the contributions of African Americans to the construction of Rosenwald-supported schools exceeded all others.

By 1932, nearly five thousand rural black schools, accommodating some 663,615 students had been built under the aegis of the Rosenwald Fund. The school building campaign, James Anderson concludes, was in large part responsible for a transformation in the overall structure of black elementary education. School attendance rates for black children increased from 36 percent in 1900 to 79 percent in 1940. Most black students still attended inadequate one-room schoolhouses, with shorter terms than the white schools, and teachers who were paid significantly less than their counterparts in the white schools. However, as Anderson notes, "there were school buildings, teachers, desks, and seats throughout the black South in 1940 that had not been there in 1900."[99]

As segregation tightened in the South during the early decades of the twentieth century, Dunbar High School in Washington, DC defied the mandates of separated and unequal. Looking back on the illustrious history of the nation's first black public high school, social psychologist Kenneth Clark commented: "Dunbar is the only example in our history of a separate black school that was able, somehow, to be equal." For Clark, a leader in the fight against school segregation, Dunbar was the exception that proved the rule. It was the product of a unique set of historical circumstances that

[98] Anderson, *Education of Blacks in the South*, 114, 135-47.

[99] *Ibid*., 148-85.

enabled a small and select group of black students to obtain a public education that was the equivalent of the country's leading prep schools.[100]

What became known as Dunbar High School was founded in 1870 by William Syphax, a copyist with the Interior Department and chairman of the Board of Trustees of the Colored Public Schools in Washington DC. In 1891, the school moved into a brick building on M Street near First Street in northwest Washington, and came to be called M Street High School (National Register, 1986). When the school moved again in 1916 to First and N Street, it was named in honor of poet Paul Laurence Dunbar.

From its founding until 1916, the high school had nine principals who led in establishing the high standards and rigorous academic program that came to distinguish the school. These men and women were graduates of places like Oberlin, Harvard, and Dartmouth. Only one, Emma J. Hutchins, a New Englander, was white, and she served from 1870-71. Others included Richard T. Greener, the first black graduate of Harvard University, and Robert H. Terrell, also a Harvard graduate, and husband of Mary Church Terrell. Dunbar had a distinguished faculty, comprised of graduates of the nation's premier colleges and universities, many of whom also held M.A. and Ph.D. degrees. This can be explained partly by the fact that Dunbar offered salaries that surpassed most black colleges; the federal government paid black teachers in Washington the same as white teachers. It was also a function of segregation, which limited the opportunities available to black academicians.

The student body at Dunbar reflected the color and class system that stratified Washington's black society. Indeed, Kenneth Clark suggests that Dunbar was possible only because of these class distinctions. Acceptance to Dunbar was based on an entrance examination, which favored the children of black Washington's upwardly mobile middle class. Robert Weaver (Class of 1925), whose mother and brother were also Dunbar graduates, explained that his experience at Dunbar reinforced values he learned at home. Weaver recalled that his parents and the parents of his classmates instilled in their children an aspiration "to fix our wagons to a star, but it had to be the star of progress, rather than a perpetuation of the status quo, as far as your opportunities were concerned." During the early twentieth century, eighty percent of Dunbar's graduates went on to college. [101]

[100] Jervis Anderson, "A Very Special Monument," *The New Yorker*, March 20, 1978, 94-121.

[101] *Ibid*., Weaver quote from: Patricia Sullivan, *Days of Hope: Race and Democracy in the New Deal Era* (Chapel Hill: University of North Carolina Press, 1996), 47.

Dunbar was a unique institution during the first half of this century, and the opportunities it afforded were restricted to a very small minority. However, its graduates included individuals who would play leading roles in the fight against segregation. Among the most notable were civil rights lawyers Charles Houston and William Hastie, Esther Cooper Jackson, a leader of the Southern Negro Youth Congress, and Robert Weaver, a leader in the effort to integrate organized labor, who later served as the Secretary of Housing and Urban, becoming the first black member of the Cabinet.

Migration had been an expression of freedom and a vehicle of self-determination for African Americans since the Emancipation. However, the migration of rural blacks away from the countryside to urban areas increased precipitously around 1914 in response to increasing labor demands and opportunities created by World War I. James Anderson notes that black migration made southern landowners more receptive to the school building program launched by the Rosenwald Fund. The U.S. Department of Labor specifically advised increased support for black schools as a means to "keep the Negroes in the South and make them satisfied with their lot."[102]

From 1915 to 1929, there was a steady migration of rural blacks to urban areas in the South and in the North. During this period, an estimated one and a half million southern blacks migrated north, a vast internal movement of people known as the Great Migration. The rapid growth of black communities in northern cities challenged existing social and civic institutions, including public schools. However, before turning attention northward, it is important to note that the urbanization process was not exclusively a South-North phenomenon. The movement of rural blacks to southern cities also had important consequences for the development of public education for African Americans in the South.

During the first two decades of the twentieth century, the education reform movement in the South supported a vigorous program to establish high schools for white students in rural and urban areas. By 1916, there were one hundred twenty-two public high schools for whites in the state of Georgia when, only twelve years earlier, there had been four. In 1916, there were no public high schools for blacks in Georgia, and only twenty-one throughout the entire South. However, eight years later, in 1924, there were one hundred twenty-four public high schools for blacks in the South, concentrated in urban areas.

This development was largely a result of black migration to southern cities. The presence of increasing numbers of young, underemployed black men and women focused the attention of white civic and business leaders on the need for supplementing the system of private black high schools with support for the establishment of segregated public high schools for African Americans. Urban life also provided greater opportunities for blacks to develop community institutions and organizations, a critical foundation for civic action, as was evident in the circumstances surrounding the establishment of Booker T. Washington High School in 1924, the first black high school in Atlanta.[103]

A 1913 survey of Atlanta public schools highlighted the dismal conditions of black schools in this New South city. The school age population in Atlanta included 17,000 white children and 10,000 black children. The city of Atlanta supported thirty-eight grammar schools for white children, two high schools, a commercial school, and five night schools. For black children, the city provided eleven grammar schools. With demand far exceeding the physical space available, black teachers taught double-shifts, often with sixty or more students crowded into a classroom. The facilities were run down

[102] Anderson, *Education of Blacks in the South*, 152.

[103] *Ibid*., 186-237.

and unsanitary. Even the Superintendent of Schools said that some of them were "a disgrace to civilization and unfit for cattle to be herded in."[104]

In 1917, when the school board proposed abolishing the seventh grade in black schools in order to fund a new white junior high school, blacks protested through the Atlanta branch of the National Association for the Advancement of Colored People (NAACP). Two years later, after the NAACP sponsored an intensive voter registration drive, Atlanta blacks defeated a citywide school bond referendum. (While the all-white Democratic primary in Georgia limited effective participation of blacks in most electoral contests, black Atlantans could wield significant power in bond referenda since they did not involve a primary election.) The NAACP presented city officials with a list of grievances to be met before the black community would support any more school bonds. After another bond issue was defeated, the city administration finally pledged $1,250,000 for black schools, and the bond passed. These funds supported the building of Booker T. Washington High School.[105]

Durham, a major center of black business, was another southern city where growing black political power and strong leadership brought significant improvement in school conditions. In her memoir, Pauli Murray recalls the transformation of the black high school in the Hayti section of Durham, North Carolina after World War I. The old Whitted High School, "a wooden fire trap," had mysteriously burned down the year before she finished elementary school. It was replaced by Hillside High School. Housed in "a fine red brick building," the new school included "a large auditorium that doubled as a gym, a cafeteria, a library, science labs, playgrounds, playing fields, and all new equipment." W. G. Pearson, the principal, recruited a group of new teachers, many recent graduates of Fisk, Howard, and Wilberforce universities. They were young and energetic and instituted innovations that were "utterly new to colored high school students in our town." An eleventh grade was added to the previous ten grades of the black school system. "Such modest advances were important milestones for us," Murray explained. "They sustained our hope and gave us a sense of achievement at a time when the prevailing view that Negroes were inferior remained unchallenged."[106]

Gains such as these were confined to a small segment of the South's urban black population, and, even in the best cases, public funding for black schools did not approach parity with white schools. For the vast majority of southern blacks, a high school education remained totally inaccessible. By the mid-1930s, while 54% of all southern white children attended public high school, less than 20% of school age black children did.[107]

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[104] Dittmer, *Black Georgia*, 146-47.

[105] *Ibid*., 147-48.

[106] Pauli Murray, *Song in a Weary Throat* (New York: Harper and Row, 1987), 59-60.

[107] Anderson, *Education of Blacks in the South*, 235-37.

Indian Boarding Schools: The Challenge and Limitations of Assimilation

By 1902 there existed 25 federally supported, non-reservation boarding schools for American Indians across 15 states and territories with a total enrollment of 6,000 students. The Carlisle Indian School, with its emphasis on assimilation and vocational training, served as the model. New boarding school students found themselves adapting to changes at every turn. Like contemporary boot camp, young people were initiated into military discipline. Cropped hair and school uniforms became the first order of business with daily drill practice and scheduled routines. Especially in the early years, children received English names based either on loose translations of their traditional names or on U.S./British historical figures or even from a list randomly written on a blackboard (e.g. Samuel M. Bull or Walter Scott). Life was regimented from sun up to after sundown with strict discipline and swift punishment.[108] As a typical example, Anna Moore, a student at the Phoenix Indian School, recalled scrubbing the dining room floors.

> My little helpers and I hadn't even reached our teen-aged years yet and this work seemed so hard! If we were not finished when the 8:00 am whistle sounded, the dining room matron would go around strapping us while we were still on our hands and knees. [She added] We just dreaded the sore bottoms.[109]

The emphasis on vocational education remained a constant in boarding school education along with the afternoon chores of producing items for school use and for sale. In 1924, for instance, the young women at the Chilocco Indian School in Oklahoma produced "505 aprons. . .85 brassieres, 608 pillowcases, 755 nightgowns, 623 shirts, blouses, and nightshirts, 3,071 sheets, 436 undershirts, 1,430 dresses, and 75 skirts." The system of hiring out, or outing, continued as well, with experiences that ran the spectrum of satisfying employment to simple drudgery. Loneliness was, without saying, endemic to a life far away from home.[110]

Certainly homesickness was not the only illness stalking boarding school students. Tuberculosis, trachoma, measles, small pox, whooping cough, influenza, and pneumonia roamed the halls of poorly funded schools. As historian Brenda Child contends, "Tuberculosis was common place in government boarding schools where diseased and healthy children intermingled." Harshly critical of school conditions, the 1928 Meriam Report noted that meager food budgets (11 cents per child per day), overcrowded facilities, inadequate health care, and overwork of children contributed to the spread of diseases. Indeed, American Indians had a higher death rate, six and a half times, than that of other racial/ethnic groups. Between 1885 and 1913, over 100 children were buried at Haskell Institute in Kansas, representing only a fraction of the deaths that occurred there as the bodies of youngsters were often shipped home.[111] Behind the statistics, of course, lay the families touched by tragedy. In 1906,

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[108]Adams, *Education for Extinction*, 100-124; Lomawaima, *They Called It Prairie Light*, 13, 41-46, 101-112; Child, *Boarding School Seasons*, 39-41.

[109]Anna Moore Shaw, *A Pima Past* (Tucson: University of Arizona Press, 1974), 135-136.

[110]Lomawaima, *They Called It Prairie Light*, 81-93; Child, *Boarding School Seasons*, 45-85; Esther Burnett Horne, *Essie's Story: The Life and Legacy of a Shoshone School Teacher* (Lincoln: University of Nebraska, 1998), 35, 48-49. Quote is from Child, *Boarding School Seasons*, 84. Note: The Meriam Report of 1928 stated bluntly, "The question may very properly be raised whether much of the work of Indian children in boarding schools would not be prohibited in many states by child labor laws." Margaret Connell Szaz, *Education and the American Indian: The Road to Self-Determination Since 1928* (Albuquerque: University of New Mexico Press, 1974), 20.

[111] Child, *Boarding School Seasons*, 55-68; Szaz, *Education and the American Indian*, 18-20; Lomawaima, *They Called It Prairie Light*, 31. Quote is from Child, *Boarding School Seasons*, 62.

the Superintendent of the Flandreau Indian School in South Dakota sent the following letter:

> It is with a feeling of sorrow that I write you telling of the death of your daughter Lizzie. She was not sick but a short time and we did not think her so near her end. . .She had quite a fever for several days and then seemed to improve, but she did not rally as she ought to have done. . .she was without doubt going into quick consumption. Lizzie was one of our best girls, was always ready to do right, and will be missed by all who knew her, you will have the deep sympathy of all the employees. . .in this your hour of affliction. . .Had we known that she was not going to live but so short a time, we would have made a great effort to have gotten you here before she died.[112]

The Meriam Report sparked the beginning of reform.[113] Curricular innovations included the creation of bilingual teaching materials, the preservation of native cultures (including religion), and the end of military trappings. Vocational education, however, was seriously outdated. By the 1930s training students to be blacksmiths and harness makers seemed oddly antiquated, if not downright irresponsible. Even the Phoenix Indian School, the pride of the federal system, was woefully "inadequate." Enrollment in these institutions dropped precipitously due, in large measure, to the entry of native students into the public school system.[114] Given the social climate, access to public schools had its difficulties. In 1921, Political Code 1662 in California was amended to include the stipulation that the state's American Indian children could only attend local schools if an Indian facility could not be found within a three-mile distance from their homes. Northern California native Alice Piper challenged this proviso and in *Piper v. Big Pine* (1924), the California Supreme Court ruled in Piper's favor, allowing her entry to the local public school. The court, however, did not disavow the concept of "separate but equal," and it was not until 1935 that the legislature deleted this discriminatory stipulation in the school code, thus ending de jure segregation for California Indians. Nationally, before the onset of the Great Depression, over 8,000 students remained in federal non-reservation boarding schools compared to over 34,000 American Indian pupils educated at their local public schools.[115]

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[112]Child, *Boarding School Seasons*, 65-66.

[113]Officially entitled, "The Problem of Indian Administration," the Meriam Report was drafted by the Brookings Institution, an independent organization. "The Indian Bureau had been analyzed a number of times, but no study has had a greater impact than the Meriam Report. During the administrations of Hoover and Roosevelt the recommendations of the Meriam Report often served as a guideline for the Indian commissioners." Quote is from Szaz, *Education and the American Indian*, 2-3.

[114]Szaz, *Education and the American Indian*, 67-73; Lomawaima, *They Called It Prairie Light*, 31, 104; Trennert, *Phoenix Indian School*, 208.

[115]Wollenberg, *All Deliberate Speed*, 94-98; Adams, *Education for Extinction* 320, 331-332. A case similar to *Piper* occurred in Alaska when the District Court judge ruled in *Jones v. Ellis et al., School Board* (1929) that a mixed blood child could attend the white territorial school in Ketchikan despite the existence of a Federal Indian School in the city. A 1943 opinion of the Attorney General of Alaska expanded upon this holding to include full-blooded Natives.

Memories of boarding school life vary from visions of "Shangri-La" to recollections of hunger, from an individual's experience as a star athlete to a desperate runaway. Alumni frequently recall with merriment social events, teachers, close friends as well as the times they got away with some mischief. Young people often met their future spouses on campus. According to historian Steve Crum, the Stewart Indian School in Nevada fostered intermarriage between Shoshone and Paiute students. Circumscribed in their daily routines, students looked forward to amusements outside the school. Going into town to shop or to the movies was a special treat although in Phoenix, American Indian students had to sit in the segregated aisles reserved for people of color. Sports teams promoted school pride and Haskell Institute produced the legendary athlete Jim Thorpe. Even young women "were encouraged to become involved in the 'genteel' sports of basketball and tennis." Beloved educators, such as Ellen Deloria (Lakota) and Ruth Bronson (Cherokee), made life more bearable. As Esther Horne recalled, "Ruth and Ellen listened to us. They were interested in what we thought. . .They taught us that we could accomplish anything we set our minds to . . ."[116]

Though laden with contradictions, with hardships and hopes, boarding schools "created community." As a graduate of Haskell Institute and an educator for over thirty years in Indian schools, Esther Horne articulated how Haskell shaped her life.

> Most of us who are alumni of Indian boarding schools feel a great pride and sense of belonging to a unique and special group of people—people. . .who have become part of our extended families. Even though boarding schools took children away from their homes. . .we created our own community at the school. We were proud of our accomplishments and proud that we had retained so much of our Indianness. Critics dismiss boarding schools as assimilationist institutions whose intent was to destroy Native culture. While this may be a true generalization, the students and teachers at Haskell will forever be an integral part of who I am as an American Indian.[117]

Fostering a sense of connection and building alliances across tribal affiliations, the boarding school environment (if unintentionally) cultivated a pan Indian unity. Historians Wade Davies and Peter Iverson offer the following observation. "Rather than a prelude to assimilation and disappearance, the boarding school could underscore the need for different peoples to work together in the future.[118]

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[116]Child, *Boarding School Seasons*, 2-4, 17; Adams, *Education for Extinction*, 115; Lomawaima, *They Called It Prairie Light*, 41, 94-99, 121, 158-167; Crum, *The Road on which We Came*, 65; Trennert, *Phoenix Indian School*, 128-129, 132-133; Horne and McBeth, *Essie's Story*, 32-33, 42, 45-47, 52-53, 58. Quotes are from Trennert, *Phoenix Indian School*, 129 and Horne and McBeth, *Essie's Story*, *42*.

[117]Horne and McBeth, *Essie's Story*, 52-53. Note: *Essie's Story* is an eloquent oral narrative of an extraordinary educator and activist.

[118]Adams, *Education for Extinction*, 336; Trennert, *Phoenix Indian School*, 210; Wade Davies and Peter Iverson, "American Indian Identities in the Twentieth Century," in *American Stories: Collected Scholarship on Minority History from the OAH Magazine of History* (Bloomington: Organization of American Historians, 1998), 111.

Asian Americans

During the early decades of the twentieth-century, school segregation policies affected Asian Americans differentially depending on their specific heritage, geographic locale, and the prevailing social climate. In 1900 89,863 people of Chinese birth or descent lived in the United States, most on the West Coast. Residents of San Francisco's Chinatown felt the sting to Political Code 1662 mandating school segregation for the Chinese. From 1900 to 1935, however, they pushed against exclusionary educational policies and practices. Living with his family outside of Chinatown, Dr. Wong Him enrolled his daughter Katie in a neighborhood school, but a year later, Katie was instructed to attend the Chinese Primary School. The doctor filed suit noting that the San Francisco school board permitted blacks, American Indians, and Japanese to attend local schools while targeting only Chinese for discriminatory treatment. In *Wong Him v. Callahan* (1903), the U.S. District Court disagreed and upheld the idea of "separate but equal" as stipulated in the school code. Chinese merchants petitioned the state legislature to amend this provision but to no avail. A frustrated L. Lowe put it this way: "The present law is most unjust. It limits the Chinese children to the Chinese Public School. . .the highest grade is the sixth and with that a scholar's education, as far as the public schools go, is at an end."[119] The 1906 San Francisco Earthquake destroyed the Chinese Primary School and in considering a new building, the board promulgated a new policy, first changing the name of the Chinatown school to the Oriental Public School and then remanding "all Chinese, Japanese, or Korean children" to this facility. It took nine years before this permanent structure was built and in the meantime, students attended classes in makeshift facilities. Although there were sporadic legal challenges to segregation, change actually occurred in small, almost imperceptible ways. As Victor Low related, "The board of education's unwritten policy was to allow Chinese children who lived outside of the Chinese quarter to go to neighborhood schools as long as white parents did not object." But if a complaint was lodged, the board would enforce the exclusionary mandate of the school code.[120]

By the late 1920s, due to community mobilizing in Chinatown, the school board began to implement new policies including deliberately ignoring state Political Code 1662. The first step came in 1924 when the Oriental Public School was re-christened Commodore Stockton School thus erasing the stigma of the term "Oriental." Soon thereafter, by the Great Depression, students who lived in Chinatown attended several local elementary and secondary schools. While North Beach residents protested this integration, the strength of Chinese organizations with the assistance of influential allies, such as Stanford University President David Starr Jordan, swayed the board. Dr. Chester Lee of the "Cathay Post of the American Legion declared, 'The only way our children can become good American citizens is to mingle with the American people.'"[121] This mingling, however, did not occur overnight or easily. As Eva Lowe remembered:

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[119]Judy Yung, *Unbound Feet: A Social History of Chinese Women in San Francisco* (Berkeley: University of California Press, 1995), 293; Low, *The Unimpressible Race*, 84-87, 96-98, 116-122, 120-131. Quote is from Low, *The Unimpressible Race*, 86-87.

[120]Wollenberg, *All Deliberate Speed*, 54; Low, *The Unimpressible Race*, 92-93, 96-97, 100, 106, 110.

[121]Low, *The Unimpressible Race*, 114-120, 122-123, 131-132; Yung, *Unbound Feet*, 127. Quote is from Low, *The Unimpressible Race*, 131.

> We used to have streetcars on Stockton Street. After school, some kids would ride streetcars home. . .And those Italian boys pulled them down from the streetcars. . .Then when we had a lunch period, even in high school, if we sit. . .at a certain table, next day the Caucasian girls won't sit there. They see a Chinese sitting there, they moved.[122]

By 1910, over 72,000 persons of Japanese birth or descent lived in the continental United States and Hawaii. After the 1906 earthquake when the San Francisco school board specifically included Japanese youth, as children required to attend the "oriental" school, this new policy sparked an international incident. Japanese residents challenged this mandate drawing on the support of the Japanese ambassador and consul in helping to secure the rights of their American born (Nisei) children. President Theodore Roosevelt himself personally intervened calling the segregation of Japanese students "a wicked absurdity." Cognizant of Japan's rise as a military power after its defeat of Russia, Roosevelt sought to avoid strained diplomatic relations. Newspapers in San Francisco and Japan seemed to square off with dueling stories. The *San Francisco Call* put it bluntly, "We are not willing that our children should meet Asiastics in intimate association. . .That is 'race prejudice' and we stand by it." Tokyo's *Mainchi Shimpo* reported, "Our countrymen have been HUMILIATED. . .Our boys and girls have been expelled from the public schools by the rascals of the United States, cruel and merciless like demons." In securing Japan's acceptance of the Gentlemen's Agreement of 1907 restricting further immigration of Japanese workers, President Roosevelt made assurances that the Nisei children would attend integrated schools.[123]

In Hawaii, the question of segregation was expressed somewhat differently than on the mainland. By 1900, the Japanese represented the largest racial/ethnic population in the Hawaiian Islands and not surprisingly, they constituted a sizable segment of the public school population. Instead of segregating students of color under the mantle of "separate but equal," the territorial legislature created "select" or English Standard schools for the European American minority. With superior facilities and funding, these schools educated less than ten percent of Hawaii's youth. While only three percent of whites attended regular public schools, they represented fifty percent of pupils who sat at desks in English Standard classrooms. For Japanese children, the figures were almost reversed as they represented only three to eight percent of "select" school students during the period 1925 to 1927. Historian Roger Daniels contends that the English Standard schools "eerily prefigure some of the less violent devices used by southern school systems in their attempts to resist integration after 1954."[124]

Like the German immigrants in the American heartland, the Japanese created after school language schools in both Hawaii and the mainland. Education scholar Eileen Tamura traces the tenacity of Hawaii's Japanese community in maintaining and defending these classes despite nativist attempts to curb them. During World War I and after with rising anti-immigrant sentiments, 22 states abolished "foreign language schools." A similar attempt was made in Hawaii with legislation that sought to circumscribe these community-based institutions through permits, regulations, and additional taxes. Resisting these restrictions, the schools filed suit. In *Farmington v. Tokushige* (1926), the U.S. Ninth Circuit Court ruled in favor of the language classes. Speaking for the court, Judge Frank Rudin

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[122]Yung, *Unbound Feet*, 128.

[123]*Ibid*., 127; Low, *The Unimpressible Race*, 88-89, 93-94; Wollenberg, *All Deliberate Speed*, 48-49, 54-61, 66-67. Quotes taken from Wollenberg, *All Deliberate Speed*, 60, 57, and 55, respectively. Victor Low notes that Roosevelt's intervention prodded the board to reclassify Japanese as 'Malayans' and not 'Mongolians,' a nomenclature that enabled them to attend neighborhood schools.

[124]Eileen H. Tamura, *Americanization, Acculturation, and Ethnic Identity: The Nisei Generation in Hawaii* (Urbana: University of Illinois Press, 1994), xi, 5, 110-115.

remarked, "The children. . .do attend the public schools. . .and when they have done this we take it for granted that they have an undoubted right to acquire a knowledge of foreign language, music, painting. . .and such other accomplishments. . ." The court based its decision, in part, on *Meyer v. Nebraska*, a 1923 case that also upheld the right of language schools to exist. The U.S. Ninth Circuit Court even borrowed a portentous phrase from the *Meyer* ruling: "The protection of the Constitution extends to all, to those who speak other languages, as well as those born with English on the tongue."[125]

At the same time that Japanese communities in Hawaii were defending their language schools, Nisei children in California and Arizona were subject to de jure segregation (though not always enforced). In 1921, the California school law (Political Code 1662) was amended once again to read as follows:

> The governing body of a school district shall have power to exclude children of filthy or vicious habits, or children suffering from contagious or infectious diseases, and also to establish separate schools for Indian children and for children of Chinese, Japanese, or Mongolian parentage. When such schools are established, Indian children or children of Chinese, Japanese, or Mongolian parentage must not be admitted into any other school.[126]

However, only four towns (Walnut Grove, Courtland, Florin, and Isleton) duly segregated Japanese and other Asian American youth into "oriental" schools, all four were small farming outposts in the San Joaquin River Delta of northern California. Interestingly, in all four communities, the Nisei represented the majority of students. In Walnut Grove, for example, over 200 pupils filled the Asian school while the elementary school reserved for whites contained only 62 students and smaller yet the "migratory school" [read Mexican] educated just under 30 children. A simple stucco structure, Florin East Elementary still stands as the only extant "oriental" school outside of San Francisco's Commodore Stockton. As in previous instances, European Americans desired exclusion to prevent their children from coming into contract with peers of color. "When asked why his town separated the schools, one Florin resident answered, 'That's easy. Race prejudice.'"[127]

In some areas, Japanese and Mexican children attended the same segregated facility. El Monte was a small enclave in the shadows of Los Angeles, a town with a population of under 10,000 residents (75 percent European American; 20 percent Mexican; and 5 percent Japanese). Despite its size, El Monte had clearly marked racial divisions in housing, schools, and public facilities. Mexicans and Japanese were segregated from European American El Monte. The children of Japanese farmers and Mexican farm workers attended the same segregated school, Lexington Elementary, and in the town's premier movie palace, they were relegated to the same side of the aisle, away from European American patrons. This sharing of social space in the classroom or the cinema led to an environment in which grower-campesino relations were familiar, but not friendly. According to Señora Jesusita Torres, "They [the Japanese farmers] would work in the field, but you knew they were the *boss*."[128] Similarly in Arizona,

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[125] *Ibid*., 147-150, 275.

[126]Isani Arifuku Waugh, *et. al*, "A History of Japanese Americans in California," in *Five Views*, 196.

[127]*Ibid*., Wollenberg, *All Deliberate Speed*, 72-73.

[128] Charles S. Spaulding, "The Mexican Strike at El Monte, California," *Sociology and Social Research*, Vol. 18 (September-August, 1933-1934): 571; Ronald W. López, "The El Monte Strike of 1933," *Aztlán*, Vol. 1 (Spring 1970), 103; Rudolfo F. Acuña, *Occupied America: A History of Chicanos*, 2nd ed. (New York: Harper and Row, 1981), 220; *The Los Angeles Times*, September 27, 1992; Interview with Jesusita Torres, January 8, 1993 conducted by Vicki L. Ruiz.

school officials routinely exercised the prerogative of establishing separate classes for children of color, at times creating separate schools. In 1925 the Arizona legislature debated the merits of House Bill 31 intended to segregate white and "colored" youth in the state's high schools. The bill that passed, however, placed the "matter of segregation to the vote of the people living in the district concerned." A year later *The Arizona Teacher and Home Journal* reported that the Cartwright School in Phoenix had hired Edna Hanson to teach "Mexican and Japanese" children in their own classroom. Arizona native Susie Sato revealed that segregation extended beyond the schoolyard. Asian Americans, Mexican Americans, African Americans, and American Indians were not permitted to swim in the Tempe public pool and throughout the Phoenix area, movie theaters practiced a strict policy of segregation.[129]

Despite the previous examples of exclusion, Charles Wollenberg contends that in California the overwhelming majority of Nisei youth attended integrated classes in integrated schools. Growing up in the San Joaquin Valley community of Cortez, California, the Nisei residents, interviewed by historian Valerie Matsumoto, spoke fondly of their school experiences, but also noted the discrimination they faced. "There was quite a bit of prejudice all through the school." The Nisei developed friendships across racial lines with peers of the same gender; conversely, interracial dating "was unthinkable for most." The taboo against interracial relationships had roots in both the Issei (first generation) and European American worlds. Indeed, 14 states, including California, banned marriages between whites and Asian Americans.[130]

The unwritten social rules for high school, however, proved to be the least of the problems facing Nisei youth in 1942. With a pen's stroke, President Franklin Delano Roosevelt signed Executive Order 9066 "authorizing the removal of 110,000 Japanese and their American born children from the western half of the Pacific Coast states and the southern third of Arizona." For Japanese Americans in Phoenix, the side of the street on which they lived determined whether they stayed or left. The line separating the "restricted" from "non-restricted" areas "ran through Phoenix along Grand Avenue and Van Buren Street, and then stretched through Tempe along Mill Avenue and Apache Boulevard running through the center of Mesa." If one resided, for example, on the north side of Apache, you stayed; if on the south, pack your bags, you have only one week to put your affairs in order. The ten internment camps were conglomerations of hastily assembled barracks situated in isolated, desolate locales. Subject to the sweltering summers typical of Arizona, the Poston Camp was subdivided into three areas, known by the unflattering (though appropriate) sobriquets of "Toaston, Roaston, and Duston."[131]

Schools were set up within the camps staffed with over 550 European American and 22 Nisei

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[129] *Arizona Teacher and Home Journal*, Vol. 13:6 (February 1925): 16-18; *Arizona Teacher and Home Journal*, Vol. 15:1 (September 1926): 28; Valerie Jean Matsumoto, *"Shikata ga nai*: Japanese American Women in Central Arizona, 1910-1978," (Honors thesis, Arizona State University, May, 1978), 20-21.

[130] Wollenberg, *All Deliberate Speed*, 73; Valerie J. Matsumoto, *Farming The Home Place: A Japanese American Community in California, 1919-1982* (Ithaca: Cornell University Press, 1993), 75-76; Valerie J. Matsumoto, "Japanese American Women and the Creation of Urban Nisei Culture in the 1930s," in *Over The Edge: Remapping The American West*, eds. Valerie Matsumoto and Blake Allmendinger (Berkeley: University of California Press, 1999), 298. Quotes are from Matsumoto, *Farming The Home Place, loc. cit.*

[131] Valerie J. Matsumoto, "Japanese American Women During World War II," in *Unequal Sisters*, 3rd ed., 438-439; Matsumoto, "*Shikata ga nai*," 23-24. Matsumoto further notes that those living on the southside did not move north because of the belief that it was a matter of time before everyone of Japanese birth or heritage would be relocated behind barbwire. Residents who lived north of the line had to obtain special permits to travel south, even to get groceries. ["*Shikata ga nai*," 34] The financial losses incurred by Japanese Americans during World War II are estimated at "between $149 million and $370 million in 1945 dollars and between $810 million and $2 billion in 1983 dollars." ["Japanese American Women," 449]

educators. The Amache Camp in Colorado provides a glimpse of the economies of scale involved in the task of organizing a small school district with 51 teachers, 41 Nisei aides, and almost 2,000 students. For many children, it was their first taste of segregation. Nisei writers and poets have crystallized the surreal high school milieu complete with cheerleaders, sports teams, and yearbooks.[132] In her collection *Camp Notes*, Mitsuye Yamada recalls these inherent contradictions. Two excerpts follow: The first taken from the poem "Minidoka, Idaho" and the second from "The Watch Tower."

> In Minidoka
> I ordered a pair of white
> majorette boots
> with tassels from
> Montgomery Ward
> and swaggered in
> ankle deep dust.
> . . . .
> From the rec hall the long body
> of the centipede
> with barracks for legs
> came the sound of a
> live band playing
> Maria Elena
> You're the answer to my dreams.
> Tired teenagers
> leaning on each other
> swayed without struggle.
> This is what we did with our days.
> We loved and we lived
> just like people.[133]

The War Relocation Authority did permit Nisei college students to transfer to midwestern or eastern institutions. Along with the recruitment of Nisei youth into the U.S. military, graduates of internment high schools applied to colleges and/or sought sponsorship for jobs further inland eager for opportunities to prove themselves. For instance, by 1945, over sixty percent of Nisei women 16 years or older had left the barbed wire behind. Whether families returned home after the war or resettled elsewhere, their children walked through the doors of neighborhood schools anxious to continue their education.[134]

Mexican-Americans

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[132]Wollenberg, *All Deliberate Speed*, 76-78; Matsumoto, *Farming The Home Place*, 124-125. Excellent examples of these memoirs include Monica Sone, *Nisei Daughter* (Boston: Little, Brown, 1953 rpt. University of Washington Press, 1979); Jeanne Wakatsuki Houston, *Farwell to Manzanar* (Boston: Houghton Mifflin, 1973); and Yoshiko Uchida, *Desert Exile: The Uprooting of a Japanese American Family* (Seattle: University of Washington Press, 1982).

[133] Mitsuye Yamada, *Camp Notes and Other Poems* (Lathan, NY: Kitchen Table: Women of Color Press, 1992), 17, 22.

[134]Matsumoto, *Farming The Home Place*, 132-135, 140-143; Wollenberg, *All Deliberate Speed*, 80. Although Wollenberg's study covers only California, I have found no evidence indicating segregation of Nisei or Sansei (third generation) children after World War II.

During the dawning decades of the twentieth century, as the Japanese built communities on western soil, immigrants from Mexico also arrived, often with their dreams and little else. Between 1910 and 1930, over one million Mexicanos (one-eighth to one-tenth of Mexico's population) migrated northward. Pushed by the economic and political chaos generated by the Mexican Revolution and lured by jobs in U.S. agribusiness and industry, they settled into existing barrios and created new ones in the Southwest and Midwest. In 1900, from 375,000 to perhaps as many as 500,000 Mexicans lived in the Southwest. Within a short space of twenty years, Mexican Americans were outnumbered at least two to one by new immigrants and their barrios became immigrant enclaves. In some areas, this transformation appeared even more dramatic. Los Angeles, for example, had a Mexican population ranging from 3,000 to 5,000 in 1900. By 1930 approximately 150,000 persons of Mexican birth or heritage resided in the city's expanding barrios.[135] As historian David Gutiérrez has argued, immigration from Mexico in the twentieth century has had profound consequences for Mexican Americans in terms of "daily decisions about who they are—politically, socially, and culturally—in comparison to more recent immigrants from Mexico." Indeed, a unique layering of generations has occurred in which ethnic/racial identities take many forms from the Hispanos of New Mexico and Colorado whose roots go back to the eighteenth century to the recently arrived who live as best they can in the canyons of northern San Diego County.[136]

Such a heterogeneous Mexican community is not new. Throughout the twentieth century, a layering of generations can be detected in schools, churches, community organizations, work

[135]Oscar J. Martínez, "On the size of the Chicano Population: New Estimates, 1850-1900," *Aztlán* (Spring 1975): 56; Ricardo Romo, *East Los Angeles: History of a Barrio* (Austin: University of Texas Press, 1983), 42, 61; Camarillo, *Chicanos in a Changing Society*, 200-201; George J. Sánchez, *Becoming Mexican American: Ethnicity, Culture, and Identity in Chicano Los Angeles, 1900-1945* (New York: Oxford University Press, 1993), 18.

[136]David Gutiérrez, *Walls and Mirrors: Mexican Americans, Mexican Immigrants, and the Politics of Ethnicity in the Southwest, 1910-1986* (Berkeley: University of California Press, 1995), 6.

sites, and neighborhood. Writing about San Bernardino in the 1940s, Ruth Tuck offered the following illustration:

> There is a street. . .on which three families live side by side. The head of one family is a naturalized citizen, who arrived eighteen years ago; the head of the second is an alien who came. . .in 1905; the head of the third is the descendant of people who came. . .in 1843. All of them, with their families, live in poor housing; earn approximately $150 a month as unskilled laborers; send their children to "Mexican" schools; and encounter the same sort of discriminatory practices.[137]

During the teens and twenties, religious and state-organized Americanization projects aimed at the Mexican population proliferated throughout the Southwest and Midwest. While these efforts varied in scale from settlement houses to night classes, curriculum generally revolved around cooking, hygiene, English, and civics. Frequently segregated schools were touted as tools in the cause of Americanization. In 1899 the Arizona territorial legislature penned Title XIX, a bill stipulating English as the language of instruction in the public schools. Title XIX would later be used as the legislative foundation for local school districts to segregate Spanish-speaking pupils, who, not coincidentally, represented over fifty percent of the territory's school age population.[138] An excerpt from the *Arizona Teacher and Home Journal* exemplifies this rationale:

> Four hundred school children marched through the city streets on their way from Central School to the new Franklin School that will be used exclusively for. . . Mexican children. . .The opening of the school will provide an opportunity for the Mexican children of the district to study under separate tutelage until they have acquired a thorough mastery of the English language. . .[more] than they could possibly do in mixed classes.[139]

This was not an isolated occurrence. Historian Albert Camarillo has demonstrated that in Los Angeles restrictive real estate covenants and segregated schools increased dramatically between 1920 and 1950. In the tiny hamlet of Fort Stockton, Texas, the street separating the European American community from the Mexican barrio, the white school from the "Mexican" school was aptly named Division Street. On the eve of the Great Depression, Phoenix represented a western apogee of segregation with George Washington Carver High School, the Phoenix Indian School, and several "Mexican" elementary schools sprinkled across the Valley. The Tempe Eighth Street School was "restricted to 'Spanish American' or 'Mexican American'" youth and staffed

[137] Ruth Tuck, *Not With The Fist* (New York: Harcourt Brace, 1946), 209-210.

[138] Nilsen, *et.al., Dust in our Desks,* 4, 26; Laura Muñoz, "Does It Pay to Educate a Mexican?: Americanization in Arizona, 1914-1925," (graduate seminar paper, Arizona State University, 1998). For more information on Americanization programs not affiliated with segregated schools, see Vicki L. Ruiz, *From Out of the Shadows: Mexican Women in Twentieth-Century America* (New York: Oxford University Press, 1998).

[139] *Arizona Teacher and Home Journal*, Vol. 9:2 (October 1920): 23.

primarily by student teachers from the neighboring normal school (now Arizona State University).[140]

In the memories of pupils past, "Mexican" segregated schools were not necessarily conducive to either self-esteem or collective identity. Throughout the Southwest, Spanish-speaking children had to sink or swim in an English-only environment. Even on the playground, students were punished for conversing in Spanish. Admonishments, such as "Don't speak that ugly language, you are an American now. . .," not only reflected a strong belief in Anglo conformity but denigrated the self-esteem of Mexican American children.[141] As Mary Luna stated:

> It was rough because I didn't talk English. The teacher wouldn't let us talk Spanish. How can you talk to anybody? If you can't talk Spanish and you can't talk English?. . .It wasn't until maybe the fourth or fifth grade that I started catching up. And all that time I just felt I was stupid.[142]

Yet, Luna credited her love of reading to an European American educator who had converted a small barrio house into a makeshift community center and library. Her words underscore the dual thrust of Americanization—education and consumerism. "To this day I just love going into libraries. . .there are two places that I can go in and get a real warm, happy feeling; that is, the library and Bullock's in the perfume and make-up department."[143]

But what type of training was associated with Americanization? As in other segregated facilities across the nation, the curriculum in "Mexican" schools was vocational in nature. Many teachers and administrators believed that their students possessed few aspirations and fewer abilities beyond farm and domestic work. Luis Flores remembered the principal at his segregated grammar school as a man who didn't "offer help or encouragement." When Flores missed a few days of school, the principal told him point blank, "If you have to go and pick cotton, you get out and pick cotton and just quit school." Focusing on a home economics class for Mexican Americans, one Americanization article typifies this mindset. "These girls are very enthusiastic and are learning in this class, things which will make it possible for them to be efficient domestic help, when they go into American homes to work." Historian Mario García demonstrated that the curricula in El Paso's "Mexican" schools, which emphasized vocational education, served to funnel youth into the factories and building trades. In the abstract education held out hope, but in practice, it trained them for low-status, low-paying jobs. Perhaps, some Americanization

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[140]Albert Camarillo, "Mexican American Urban History in Comparative Perspective," Distinguished Speakers Series, University of California, Davis (January 26, 1987); María Eva Flores, "School Days in Fort Stockton," (dissertation chapter draft, Arizona State University, 1999); *Arizona Teacher and Home Journal*, Vol. 15:2 (October 1926): 26; Muñoz, "Does It Pay to Educate a Mexican?"

[141]Tuck, *Not With the Fist*, 185-188; Vicki L. Ruiz, "Oral History and La Mujer: The Rosa Guerrero Story," in *Women on the U.S.-Mexico Border: Responses to Change* (Boston: Allen and Unwin, 1987), 226-227; Interview with Belen Martínez Mason, Volume 23 of *Rosie the Riveter Revisited Women and the World War II Work Experience*, ed. Sherna Berger Gluck (Long Beach: CSULB Foundation, 1983), 24-25; Interview with Erminia Ruiz, February 18, 1993 conducted by Vicki L. Ruiz; Interview with Ruby Estrada, August 4, 1981 conducted by María Hernández, "The Lives of Arizona Women" Oral History Project (On File, Special Collections, Hayden Library, Arizona State University, Tempe. AZ), 6. For a scholarly overview of the educational experiences of Spanish-speaking children in southwestern schools, see Gilbert González, *Chicano Education in the Era of Segregation* (Philadelphia: Balch Institute Press, 1990).

[142]Interview with Mary Luna, Vol. 20 of *Rosie the Riveter Revisited*, 10.

[143]*Ibid*., 9.

proponents had their own doubts about their enterprise as noted by the provocative title to the article, "Does it Pay to Educate a Mexican?"[144]

Schools, in some instances, did raise expectations. Imbued with the American Dream, young people believed that hard work would bring material rewards and social acceptance. In fact, one California grower disdained education for Mexicans because it would give them "tastes for thing they can't acquire." Some teenage women aspired to college while others planned careers as secretaries. "I want to study science or be a stenographer," related one Colorado adolescent. "I thinned beets this spring, but I believe it is the last time. The girls who don't go to school will continue to top beets the rest of their lives." I contend that the impact of Americanization was most keenly felt at the level of personal aspiration. "We felt that if we worked hard, proved ourselves, we would become professional people," asserted Rose Escheverria Mulligan."[145]

Braced with such idealism, Mexican Americans faced prejudice, segregation, and economic segmentation. Though they perceived themselves as Americans, others perceived them as less than desirable foreigners. *The Saturday Evening Post*, for example, ran a series of articles urging the restriction of Mexican immigration. The titles tell the story: "The Mexican Invasion," "Wet and other Mexicans," and "The Alien on Relief." With the Great Depression, rhetoric exploded into action. Between 1931 to 1934, an estimated one-third of the Mexican population in the United States (over 500,000 people) were either deported or repatriated to Mexico even though the majority (an estimated sixty percent) were native U.S. citizens. Mexicans were the only immigrants targeted for removal. Proximity to the Mexican border, the physical distinctiveness of *mestizos*, and easily identifiable barrios influenced immigration and social welfare officials to focus their efforts solely on the Mexican people. From Los Angeles, California to Gary, Indiana, Mexicans were either summarily deported by immigration agencies or persuaded to depart voluntarily by duplicitous social workers who greatly exaggerated the opportunities awaiting them south of the border.[146] Policies of segregation in public facilities compounded the climate surrounding deportations and repatriations. Citing a 1931 survey,

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[144]San Miguel, *Let Them All Take Heed*, 46-47; Gilbert González, "Racism, Education, and the Mexican Community in Los Angeles, 1920-30," *Societas*, Vol. 4 (Autumn 1974): 287-300; Muñoz, "Does It Pay to Educate a Mexican?"; Interview with Luis Vega Flores, April 18, 1996 conducted by Yolanda Flores; *Arizona Teacher and Home Journal*, Vol. 9:8 (1920-21): 25; García, *Desert Immigrants*, 110-126.

[145] Interview with Rose Escheverria Mulligan in *Rosie the Riveter Revisited*, Vol. 27, 16-17; Ruiz, "Oral History and La Mujer," 227-228; Tuck, *Not With the Fist*, 162-163, 190-191; Paul S. Taylor, *Mexican Labor in the United States*, 2 vols. (Berkeley: University of California Press, 1929, 1932), Vol. 1, 79, 205-206; Paul S. Taylor, "Women in Industry," field notes for his book *Mexican Labor in the United States*, Bancroft Library, University of California, 1 box; Estrada interview. Quotes are taken from Taylor, *Mexican Labor*, Vol. 1, 79, 205 and Escheverria Mulligan interview, 17, respectively.

[146]Roy L. Garis, "The Mexican Invasion," *The Saturday Evening Post*, (April 19, 1930): 43-44; Kenneth L. Roberts, "Wet and Other Mexicans," *The Saturday Evening Post*, (February 4, 1928): 10-11, 137-138, 141-142, 146; Raymond G. Carroll, "The Alien on Relief," *The Saturday Evening Post*, (January 11, 1936): 16-17, 100-103; Kenneth L. Roberts, "The Docile Mexican," *The Saturday Evening Post*, (March 10, 1928): 39, 41, 165-166; Acuña, *Occupied America*, 138, 140-141; Albert Camarillo, *Chicanos in a California* (San Francisco: Boyd & Fraser, 1984), 48-49; Abraham Hoffman, *Unwanted Mexican Americans in the Great Depression* (Tucson: University of Arizona Press, 1974), 29, 43-46; Francisco Balderrama and Raymond Rodríguez, *Decade of Betrayal: Mexican Repatriation in the 1930s* (Albuquerque: University of New Mexico Press, 1995), 16-20; Neil Betton and Raymond Mohl, "From Discrimination to Repatriation: Mexican Life in Gary, Indiana, During the Great Depression," in *The Chicano*, ed. Norris Hundley (Santa Barbara: ABC-Clio Books, 1975), 124-142. For more information, we recommend Balderrama and Rodríguez, *Decade of Betrayal* and Camille Guerin-Gonzáles, *Mexican Workers and American Dreams: Immigration, Repatriation, and California Farm Labor, 1900-1939* (New Brunswick: Rutgers University Press, 1994).

historian Francisco Balderrama mentions "that more than 80 percent of the school districts in southern California enrolled Mexicans and Mexican Americans in segregated schools."[147]

Even under these circumstances Mexican parents sought educational equity for their children. Before 1931, Mexican American and European American youngsters in Lemon Grove, California, a sleepy agricultural community north of San Diego, attended the Lemon Grove Elementary School. In January 1931 the local school board built a separate facility for Mexican pupils across the tracks in the barrio. The "new" two-room facility resembled a barn hastily furnished with second hand equipment, supplies, and books. Forming el Comité de Vecinos de Lemon Grove, local parents voted to boycott the school and to seek legal redress. Except for one household, every family kept the children home. With the assistance of the Mexican Consul, the Comité hired attorneys on behalf of the 85 children affected and filed suit. Using the Americanization banner, board members justified their actions on the grounds that a separate facility was necessary to meet the needs of non-English-speaking children. To counter this argument, students "took the stand to prove their knowledge of English."[148] In *Alvarez v. Lemon Grove School District*, Judge Claude Chambers ordered the "immediate reinstatement" of Mexican children to their old school. During a reign of deportations and repatriations, Mexican immigrants had mustered the courage to protest segregation in education and they had won. Comadres and Compadres had banded together for grassroots political action. These immigrant parents, moreover, had sought the assistance of the Mexican Consul in their effort to provide equal opportunities for their U.S. born children. Equally important, this case may represent "the first successful court action in favor of school desegregation in the United States." Certainly, it was an early victory.[149]

African Americans in the Urban North

Until the great wave of migration northward began in the nineteen teens, the African American population in the north was minimal, and black enrollment in public schools was small. In the decades following the Civil War, most northern states prohibited school segregation by statute. This was largely a matter of political and economic expediency, and did not necessarily reflect a deep commitment to racial integration. Indeed, in the few northern communities, which had large concentrations of African Americans, such as southern counties in New Jersey and Illinois, school segregation was maintained, in direct violation of state law. In these areas, parents brought suits to enforce the law, and usually won. However, enforcement often proved difficult if not impossible. In some cases, school boards would simply refuse to enforce the court ruling and plaintiffs were often targets of white violence and economic retaliation. During the years of the Great Migration, as the numbers of African Americans concentrated in northern urban areas multiplied, the limited commitment to racially integrated schools in the north eroded.[150]

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[147]Francisco Balderrama, *In Defense of La Raza: The Los Angeles Mexican Consulate and the Mexican Community, 1929-1936* (Tucson: University of Arizona Press, 1982), 56.

[148]*The Lemon Grove Incident*, documentary produced by Paul Espinosa (1985) videocassette; Balderrama, *In Defense of La Raza*, 58-61; Robert Alvarez, Jr., *Familia: Migration and Adaptation in Baja and Alta California, 1800-1975* (Berkeley: University of California Press, 1987), 152-155. Quote is from Alvarez, *Familia*, 154.

[149]*The Lemon Grove Incident*; Balderrama, *In Defense of La Raza*, 60-61; Alvarez, *Familia, 152-155*. Quotes are from Alvarez, *Familia*, 154.

[150] Davison M. Douglas, "The Limits of Law in Accomplishing Racial Change: School Segregation in the Pre-*Brown* North," *UCLA Law Review* 44 (1997), 678-703.

"The cry of the Soul to know," said Mary Mcleod Bethune, helped to explain the lure of northern urban life for southern blacks during the early decades of the twentieth century. There, longer school terms, better-equipped school buildings, and "the widening out and diversification of the modern high school" promised educational opportunities that were unavailable to blacks in the South. At a time when 85% of schools attended by blacks in Georgia were one-room structures without blackboards or desks, Moseley Elementary School, the oldest school in a black neighborhood in South Side Chicago, had cooking facilities, manual training equipment, and a gymnasium.[151]

Wendell Phillips High School on Chicago's South Side was widely touted by the *Chicago Defender* as the image of the modern, urban, integrated institution and stood as a symbol of the promise that drew many blacks to the urban north. Historian James Grossman notes that this image was accurate in 1916. Black working people took advantage of the night school program at Phillips High School, where, for a minimal fee, they could enroll for any elementary or high school grade class. Enrollment in the night school increased dramatically after 1916. By 1921, 4,000 African Americans were enrolled, and an average of 2,000 attended classes each night, making it the largest night school program in the city. In 1920 courses in African American literature and history were added to the night school curriculum.[152]

However, the rapid influx of southern blacks into northern urban areas generated a deliberate effort on the part of whites to tighten racial boundaries dividing blacks and whites. Legal and extra-legal residential restrictions squeezed blacks into racially segregated neighborhoods. In Chicago, whites protested black residential encroachment with violence; fifty-nine black homes were bombed during the late teens and early twenties. Racial friction in public places sparked days of rioting in East St. Louis, Chicago, Washington, DC and Omaha. In this racially charged atmosphere, white civic leaders employed various devises to segregate and confine blacks in the area of education. Historian Davison Douglas noted that "between 1910 and 1940, the number of segregated schools in the North dramatically increased, even in communities where school integration had been common since the antebellum era." [153]

[151] Mary McLeod Bethune, "The Problem of City Dwellers," *Opportunity*, Feb. 1925, reprinted in Malaika Adero, ed., *Up South: Stories, Studies, and Letters of this Centuries African-American Migration* (New York: New Press, 1993), 110; James Grossman, *Land of Hope: Chicago, Black Southerners, and the Great Migration* (Chicago: University of Chicago Press, 1989), 247.

[152] Grossman, *Land of Hope*, 246, 248.

[153] George Haynes, "Negro Migration: Its Effect on Family and Community Life in the North," *Opportunity*, Oct. 1924, reprinted in Adero, *Up South*, 81-82; Douglas, "School Segregation in the Pre-*Brown* North," 705.

School officials in northern cities gerrymandered district lines, creating a dual school system for blacks and whites. In terms of resources and facilities, black schools were decidedly unequal. Racial segregation was also achieved by separating black and white students into separate buildings on the same plot of land, and separate classrooms within the same building. The rising popularity of intelligence testing during World War I, and the connections made between "race" and "intelligence" also supported the segregation and tracking of black students.[154]

Black northern communities were divided over the development of a dual school system. Some blacks supported separate schools, and in a few cases even petitioned school boards for establishment of black schools. Such sentiment reflected the appeal of Marcus Garvey's celebration of black pride and racial separatism in the post World War I era, a time when white violence against blacks erupted in more than 25 race riots around the country. Proponents of segregated schools voiced concern about the mistreatment of black students in predominantly white schools, and the often-prejudiced attitudes of white teachers, ignorant of black history and culture. Recent southern migrants, who had no experience with integrated schooling, were usually the strongest supporters for all-black schools. Black teachers, who were generally ineligible for jobs in mixed schools, also tended to support segregated schools.[155]

Many blacks were equally staunch in their opposition to school segregation, arguing that it would mean inferior schools for black children, and restricted opportunities. The NAACP, while acknowledging the difficulties black children often faced in mixed schools, was insistent that the remedy was not racial segregation. A leader of the anti-segregation campaign in Pennsylvania maintained that "when you segregate a group of people you limit their opportunity; you limit their goals. Segregated schools means inferior schools . . . It would be idiotic to acquiesce to a system of education patterned after the policy of the average theater, restaurant, and church." The Philadelphia *Tribune* observed that the effect of racially segregated schools on the public mind was "the most damaging. Prejudice against color certainly grows apace with the numerical growth of 'Jim Crow' schools.[156]

Yet, up through the 1920s, opponents of segregation could do little to reverse the trend. Litigation was costly and often of limited effectiveness against a school district determined to maintain segregation. Furthermore black communities remained divided over the value of school desegregation.[157]

THE LEGAL CAMPAIGN FOR EQUAL EDUCATION, 1930-1950

During the 1930s and 1940s, the NAACP and the League of United Latin American Citizens (LULAC) each began a sustained legal challenge to the structures and practices of racial discrimination, particularly

[154]Douglas, "School Segregation in the Pre-*Brown* North," 707; Carlton Mabee, *Black Education in New York State from Colonial Times to Modern Times* (Syracuse: Syracuse University Press, 1979), 258; Grossman, *Land of Hope*, 255. In the late 1920s, Horace Mann Bond and Clark Foreman, with the support of the Rosenwald Fund, conducted a study on the relationship between environmental factors and black educational achievement, using the new Stanford achievement test. Testing some 10,000 southern black students in a variety of situations, they documented a high correlation between the quality of school facilities and resources and student achievement. Clark Foreman, *Environmental Factors in Negro Elementary Education* (New York: W.W. Norton and Co., 1932).

[155] In 1887, when the state of Ohio adopted a law barring segregation in public schools, hundreds of black teachers lost their jobs. Douglas, "School Segregation in the pre-*Brown* North," 698, 712-15; Grossman, *Land of Hope*, 256-57;Vincent P. Franklin, *The Education of Black Philadelphia: The Social and Educational History of a Minority Community, 1900-1950* (Philadelphia: University of Pennsylvania Press, 1979), 72, 77-78.

[156] Douglas, "School Segregation in the pre-*Brown* North," 716-17; Mabee, *Black Education in New York State*, 248-49; Franklin, *Education of Black Philadelphia*, 51-53, 72-74.

[157] Douglas, "School Segregation in the pre-*Brown* North," 701-02, 712-13.

in the area of public education. The NAACP focused its efforts in the southern United States and LULAC was most active in Texas and the Southwest. The NAACP was an older and much larger organization than LULAC, served a more diverse constituency geographically, and had a strong presence in national politics. Still, the simultaneous and sometimes overlapping efforts of both organizations worked in tandem to gradually chip away at the legal foundations of *Plessy v. Ferguson.* As will be discussed below, the case of *Mendez v. Westminster* (1946), a case supported by LULAC, rehearsed strategies that would be used by NAACP lawyers in *Brown v. Board of Education,* and established an important precedent in the challenge to school segregation.

The NAACP's Educational Campaign: Origins

The NAACP was founded in 1909 by a group of white progressives and black civil rights activists joined in their commitment to secure the legal rights of black Americans, and to counter the general deterioration of race relations in the north. The NAACP used publicity and litigation to advance its agenda. During its first two decades, the organization won several major cases involving voting rights, residential segregation, peonage, and judicial procedure, and sponsored a nationwide campaign to boycott the racist film, *The Birth of a Nation*. As director of publicity and editor of *The Crisis*, W.E.B. Du Bois became the voice of the organization. He routinely exposed and debunked manifestations of race prejudice and presented evidence of its costs, while urging readers to struggle to secure the "highest ideals of American democracy."

In 1925, the NAACP, with the encouragement of the American Fund for Public Service (more popularly known as the Garland Fund for its benefactor, Charles Garland) began developing plans for a coordinated litigation strategy. At around the same time, the Garland Fund supported an investigation of public financing of black schools in Georgia, Mississippi, North Carolina, and South Carolina. The results of the investigation, which were summarized in a series of articles in *The Crisis*, reported a gap in per capita expenditures between white and black students ranging from roughly two to one in North Carolina to eight to one in Georgia. Commenting on the series in an April 1929 editorial, W.E.B. Du Bois declared that the next step before the NAACP "is a forward movement all along the line to secure justice for the Negro children in the schools of the nation. . . . There must be a way to bring their cases before both state and federal courts." [158]

The NAACP applied to the Garland Fund in 1930 for a grant to finance a widespread legal campaign to challenge Jim Crow in the South – in schools, on railroads, at the ballot box, in the courtroom. The Fund provided a tentative award of $100,000 to be paid out in installments and the NAACP hired lawyer Nathan Margold to direct the campaign. In a preliminary report, Margold outlined a legal strategy for challenging segregation in public schools, arguing for a direct attack on separate but equal, rather than "frittering away . . . limited funds" on sporadic efforts to compel school boards to make equal expenditures of school funds.

[158] Mark V. Tushnet, *The NAACP Legal Strategy against Segregated Education, 1925-1950* (Chapel Hill: University of North Carolina Press, 1987), 1-6.

By the time Margold submitted his report in the spring of 1931, the Garland Fund's capital was almost exhausted, depleted by the collapse of the stock market and failure to retrieve repayment on outstanding loans. After Franklin Roosevelt's inauguration in the spring of 1933, Margold took a position with the Interior Department. Walter White recommended Charles Houston as Margold's successor. Houston, who had been advising the NAACP since the late 1920s, was appointed to the staff of the NAACP as special counsel in May 1934.

Charles Houston has been aptly described as "the chief engineer and the first major architect of the twentieth century civil rights legal scene."[159] A brilliant legal mind and tactician, Houston envisioned the legal struggle as part of a multi-faceted attack on the structure of Jim Crow. By the time he joined the legal staff of the NAACP, he had prepared the groundwork for a sustained civil rights campaign.

Born in Washington DC in 1895, Charles Houston was the grandson of escaped slaves. He inherited a strong sense of racial pride from his family and benefited from William and Katherine Houston's commitment to provide their only son with the best education possible. From M Street High School in Washington, DC, he went on to Amherst College, graduating Phi Beta Kappa. His formal education was interrupted by service in World War I, an experience that fundamentally shaped Houston's personal expectations and goals. The indignities and injustices endured by black soldiers in the segregated army caused Houston to commit himself to the study of law. He wrote, "I made up my mind that if luck was with me, and I got through the war, I would study law and use my time fighting for men who could not strike back." In the fall of 1919, he enrolled in Harvard Law School, and became the first African American elected to the editorial board of the *Harvard Law Review*.[160]

After graduating from Harvard Law, Houston studied comparative law at the University of Madrid. He returned to Washington in 1924, where he joined his father's law practice and began teaching part-time at Howard University Law School. In 1929, he was appointed vice-dean, and set about transforming the law school into a laboratory for the development of civil rights law. Houston's vision for Howard was shaped by his belief in the unique and critical role of black lawyers. Applying the innovative theory of social jurisprudence advanced at Harvard by Roscoe Pound, Felix Frankfurter and others, Houston explained that through the creative exploration and application of the Constitution, black lawyers could achieve reforms that were unattainable through traditional political channels. According to legal scholar Mark Tushnet, under Houston's leadership, Howard Law School became what was probably "the first public interest law school."

The program that Houston developed at Howard reflected his conception of social engineering and of the responsibilities of black leadership. The black lawyer, Houston maintained, should "be trained as a social engineer and group interpreter." He added, "Due to the Negro's social and political condition . . . the Negro lawyer must be prepared to anticipate, guide, and interpret the groups advancement." Houston educated a generation of black civil rights lawyers, including Thurgood Marshall, who would mount the NAACP's protracted assault on the legal foundation of white supremacy.[161]

Following his appointment to the legal staff of the NAACP, Houston offered a detailed explanation of the school campaign in an article published in *The Crisis* magazine. The ultimate objective of the

[159] Judge A. Leon Higginbotham, "Foreword" to Genna Rae McNeil, *Groundwork: Charles Hamilton Houston and the Struggle for Civil Rights* (Philadelphia: University of Pennsylvania Press, 1983), xv.

[160] McNeil, *Groundwork*, 32, 42.

[161] *Ibid*., 52, 71, 84-85; Tushnet, *NAACP Legal Strategy*, 29-31.

NAACP, he declared, was "the abolition of all forms of segregation in public education." However, he acknowledged that in places where racial segregation was firmly entrenched, a frontal attack would be impractical. The strategy, then, would be to throw the immediate force of the legal fight "toward bringing Negro schools up to an absolute equality with white schools." In implementing this legal program in the South, NAACP lawyers focused on three major areas from 1933 to 1950: the desegregation of graduate and professional schools, the equalization of teachers salaries, and the equalization of physical facilities at black and white elementary and high schools.[162]

In Houston's mind, the campaign for equality in education was closely linked to the NAACP's broader fight against discrimination and segregation, and also tied to expanding the base of community involvement. Indeed, as he explained, the NAACP's role was to expose "the rotten conditions of segregation, to point out the evil consequences of discrimination [for] both blacks and whites, and to map out ways and means by which these evils might be corrected." Yet, the decision for action rested with the local community itself. Working with limited resources, flexibility was the hallmark of the legal plan implemented by Houston and his associates, a process that was responsive to local circumstances and closely linked toward building a broad base of mass involvement and support.[163]

LULAC and the Struggle for Educational Equity

Efforts at school desegregation cut across class and generational divisions within Mexican American communities. While the Lemon Grove case unfolded over a short span of time, other campaigns for educational equity took years, even decades, of resistance. Eleuterio Escobar of San Antonio, Texas can be considered one of the most persistent advocates for Mexican American children. In 1934, as a leader in the local chapter of LULAC, Escobar lobbied the school board to upgrade the dilapidated barrio schools in the city's westside. But why did Escobar choose to tackle the "equal" side of "separate but equal" without challenging the premise of "separate?" Perhaps, his reasoning lay in the unsuccessful legal attempt to overturn school segregation in one Texas town. Four years earlier, in *Independent School District v. Salvatierra*, a state court upheld the right of the Del Rio, Texas school district to separate Tejano children from European American Texans. Represented by LULAC, their parents had argued against "the complete segregation of. . .children of Mexican descent. . .from children of other

[162] Charles H. Houston, "Educational Inequalities Must Go!" *The Crisis* (October 1935), 300-01; Tushnet, *NAACP Legal Strategy*, 32-33.

[163] Houston, "Educational Inequalities," 300; Tushnet, 43.

white races. . ."[164] The superintendent, conversely, used the unctuous phrase "decided peculiarities" of Tejano students as a justification for segregation. Accepting the district's rationale of separation for Americanization (and making no distinction between Mexican or U.S. born children or between Spanish and/or English speakers), the court ruled that Mexican children were not segregated on the basis of race. Given this signal, it is not surprising that LULAC members in Texas shifted their focus to inequities in school funding.[165]

While el Comité de Vecinos de Lemon Grove represented the hopes and aspirations of working class Mexicano neighbors, LULAC emerged as a regional middle class Mexican American civil rights organization. Founded by Tejanos in 1929, LULAC struck a chord among Mexican Americans and by 1939 chapters could be found throughout the Southwest with a membership estimated at two thousand. Envisioning themselves as patriotic "white" Americans pursuing their rights, LULACers restricted membership to English-speaking U.S. citizens. Taking a page from the early NAACP, LULAC stressed the leadership of an "educated elite" who would lift their less fortunate neighbors by their bootstraps. Mario García reiterates how members considered LULAC "an authentic American organization and that each letter in its name expressed patriotism: L stood for love of country; U for unity as American citizens; L for loyalty to country; A for advancement; and C for citizenship." Taking a somewhat different spin, David Gutiérrez argues that "LULAC members consistently went to great lengths to explain to anyone who would listen that Americans of Mexican descent were different from (and by implication, somehow better than) Mexicans from the other side."[166] Yet, both historians would agree on LULAC's concrete political legacies. According to Gutiérrez:

> From 1929 through World War II LULAC organized successful voter registration and poll tax-drives, actively supported candidates sympathetic to Mexican Americans and aggressively attacked discriminatory laws and practices throughout Texas and the Southwest. More important. . ., LULAC also achieved a number of notable legal victories in the area of public education.[167]

As a representative of LULAC, Eleuterio Escobar approached the San Antonio school board in 1934 armed with impressive statistics that documented the inequalities in school funding. He and his committee demonstrated that the board had redirected resources earmarked for barrio schools to projects benefiting white communities. Furthermore, over 12,000 Mexican youngsters "were cramped into only 11 schools," while a comparable number of non-Mexican youth were educated in 28 schools. The research continued with evidence that the board had purchased a parade ground and constructed a dance hall for a white high school. Frustrated with the tepid support of fellow LULACers, Escobar left LULAC and formed "La Liga Pro-Defensa Escolar (the School Improvement League)," a coalition of "more than 70 organizations and representing approximately 75,000 persons."[168] A few school

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[164]Mario García, *Mexican Americans: Leadership, Ideology, and Identity*, 1930-1960 (New Haven: Yale University Press, 1989), 66-69; San Miguel, *Let Them All Take Heed*, 78-81. Quote is from San Miguel, *Let Them All Take Heed*, 79.

[165]San Miguel, *Let Them All Take Heed*, 79-81.

[166]Benjamin Márquez, *LULAC: The Evolution of a Mexican American Political Organization* (Austin: University of Texas, Press, 1993), 17-38; García, *Mexican Americans*, 35; Gutíerrez, *Walls and Mirrors*, 74-87. Quotes are from García, *Mexican Americans*, 35 and Gutíerrez, *Walls and Mirrors*, 84.

[167]Gutiérrez, *Walls and Mirrors*, 78.

[168]García, *Mexican Americans*, 66-72; San Miguel, *Let Them All Take Heed*, 83-84. Quotes are from García, *Mexican Americans*, 66 and 72, respectively.

upgrades were made, but not until after World War II did La Liga make significant headway in improving the physical plant of westside schools. In raising concern over safety, Manuel Castañeda of La Liga referred to the deteriorating buildings of Zavala School as "firetraps." A board member responded with the defensively snide comment: "[T]hese firetraps have been there for 25 years and we've never had a child burned to death." Drawing on a common rhetoric honoring minority veterans (they fought for democracy abroad, they've earned democracy at home), Escobar and La Liga joined forces with the NAACP. In 1950, after the passage of a $9 million dollar bond issue, the San Antonio school board agreed to improve the school conditions on the Tejano westside and the African American eastside though careful not to credit Escobar and the multiracial coalition. San Antonio's Mexican American community did recognize Escobar's relentless labor in conducting research, building alliances, and lobbying the board. In 1958 the new westside junior high bore his name.[169]

Building towards *Brown*

The NAACP's first major victory in the desegregation campaign came in Baltimore, Maryland in 1935. Baltimore's black community was well organized politically, and there was strong support for desegregation efforts. Native son Thurgood Marshall, a recent graduate of Howard University Law School, had recently opened a law practice in Baltimore. Through Marshall's connection with local activists, Marshall and Houston became involved in the case of Donald Murray, a 22-year-old graduate of Amherst College, who was prepared to file an application to attend the University of Maryland Law School in Baltimore. Under Marshall's guidance, Murray submitted an application to the Law School in January 1935; the registrar returned the application and the $2.00 fee with the notation that "the University does not accept Negro students." After Murray had exhausted all other possible administrative remedies, the NAACP was prepared to go to court.[170]

On April 19, 1935, Charles Houston addressed Baltimore's City-Wide Youth Forum's Friday evening meeting. His topic was billed as "The Effects of Discrimination in Educational Opportunity in Maryland and a Plan of Attack." During his talk, Houston announced that the NAACP would file suit against the University of Maryland the next day and he urged members of the enthusiastic crowd to attend the trial, and demonstrate that black people were interested in equal educational opportunities. Complementing the NAACP's effort to involve the community in the case and educate them about the legal fight, the Baltimore *Afro-American* provided extensive coverage and commentary on the case as it unfolded.

The basic question before the court in *Murray v. Pearson* was whether the University of Maryland could exclude qualified black applicants on the basis of race when a separate law school for blacks did not exist in the state of Maryland. Houston and Marshall charged that given the fact that there was not a separate law school, the University of Maryland, by denying Donald Murray admission solely because of his race, was in violation of the equal protection clause of the Fourteenth Amendment. The Baltimore City Court agreed, and the judge ordered that Murray be admitted immediately to the Law School, and allowed to take classes while the case was under appeal. In January 1936, the Maryland Court of Appeals upheld the lower court's ruling. "Compliance with the Constitution cannot be deferred at the

[169]García, *Mexican Americans*, 72-83; San Miguel, *Let Them All Take Heed*, 116-117. Humble in accepting the honor, Escobar stated, "This gesture of recognition. . .is really due not to my efforts alone but to the efforts of all of you. . .who. . .joined in the struggle for educational emancipation." [García, *Mexican Americans*, 83.]

[170] Bruce A. Thompson, "The Civil Rights Vanguard: The NAACP and the Black Community in Baltimore, 1931-1942," Ph.D. dissertation, University of Maryland, 174-78.

will of the State," the opinion concurred. "Whatever system it adopts for legal education now must furnish equality of treatment now." The state of Maryland chose not to appeal the case further.[171]

The fact that *Murray* was not reviewed by the Supreme Court limited the application of the ruling beyond the University of Maryland Law School. Nevertheless, *Murray* provided a model that the organization would build upon in future cases. Equally important, it demonstrated that legal action could be used to achieve change. The Baltimore *Afro-American* noted that *Murray* was only a beginning, but "what a beginning! It demonstrates the effectiveness of the NAACP program, the fine preparation of its lawyers, and the wooden guns with which state officials have long defended the lily-white policy of excluding taxpayers from public institutions." The NAACP's victory in Maryland, coming at the high tide of New Deal reformism, supported the renewed sense of political possibility that found expression in a revitalized NAACP and a growing movement for civil rights.

While acknowledging the importance of the Maryland case, Charles Houston cautioned supporters, "Don't Shout Too Soon." The University of Maryland was "a wedge, but such a little wedge." If civil rights supporters did not remain vigilant, "and push the struggle farther with all our might, even this little hole will close upon us." Determination, persistence, brains, money – and constant struggle involving growing numbers of black people and their supporters– this was the prescription for securing gains and moving forward. Houston and Marshall combined the technical aspects of litigation with a grass roots campaign of stump speaking, public education, and community organizing, recruiting new NAACP members and branches along the way. They traveled an estimated 10,000 miles a year throughout the South.[172]

During and after the Maryland case, professional and graduate school cases began "bubbling up through the South." Beyond the general strategy of challenging separate but equal at every opportunity, there was no long-term agenda that determined which cases the NAACP chose to pursue. Resources were tight, so the organization was most likely to pursue a course of action that minimized the cost of successful litigation, which made border states attractive. After their success in Maryland, Houston turned his attention to St. Louis, Missouri, where local NAACP attorneys had developed a test case challenging the exclusion of blacks from that state's law school located in Columbia, Missouri.[173]

[171] *Ibid*.,178-99. Court of Appeals ruling quoted by Charles H. Houston, "Don't Shout Too Soon," *The Crisis* (March 1936), 79.

[172] Houston, *Don't Shout too Soon*, 79-80; Kluger, *Simple Justice*, 198; McNeil, *Groundwork*, 140-42.

[173] Tushnet, *NAACP Legal Strategy*, 69-70; Houston, *Don't Shout Too Soon*, 91.

On January 34, 1936, the NAACP filed a suit on behalf of Lloyd Gaines, who sought admission to the University of Missouri Law School. The University had rejected Gaines application, and offered him a scholarship to attend a law school outside of the state, an alternative that several southern states had quickly adopted in the face of the NAACP challenge. If he preferred to attend law school within the state, Missouri would create a program at Lincoln University, a state-supported black institution of higher learning located in Jefferson City. The state courts ruled in favor of the University of Missouri, saying that either option would fulfill the state's constitutional obligations. The NAACP appealed the case to the U.S. Supreme Court.

In his argument before the Supreme Court, Charles Houston maintained that the court must enforce the principle established by *Plessy*. If Missouri insisted on barring Gaines from the Law School, than it must provide its black citizens with a law school that was the equivalent of the law school provided for whites. The Court agreed. In December 1938, in a 6 to 2 opinion written by Chief Justice Charles Evans Hughes, the court held that Missouri's failure to provide a law school for blacks manifestly "constitute[d] a denial of equal protection." Missouri must provide blacks with an opportunity to a legal education equal to that of the whites, and that could only be done within the state, striking down out-of-state scholarships as an option.[174]

In the aftermath of the *Gaines* decision, the state of Missouri immediately appropriated $200,000 to extend and improve graduate education at Lincoln University, including the establishment of a law school. The Supreme Court sent the Gaines case back to the trial court to decide whether the new law school was equal to the white school at the start of the fall term in 1939, when Gaines was due to begin his studies. Houston was confident that they would win in the trial court. But, Lloyd Gaines mysteriously disappeared. With no plaintiff, the judge dismissed the case.

Despite the strange twist at the end, the Supreme Court's ruling in *Gaines* marked a major turning point in the NAACP's legal campaign. Pauli Murray, whose application to the University of North Carolina was rejected solely on racial grounds, described *Gaines* as the "first major breach in the solid wall of segregation since *Plessy*." According to Richmond journalist Virginius Dabney, the decision had "severely jolted" the South's educational systems. As white southern leaders and educators prepared to shore up their defenses, NAACP lawyers continued to press ahead on several fronts, giving special attention to the issue of teachers' salaries.[175]

A dual pay scale for black and white teachers was a hallmark of public education systems throughout the South, and an inviting target for the NAACP legal campaign. In addition to offering a potent symbol of widespread educational inequities, teachers were a significant and highly visible segment of black communities, and they were organized through professional associations. Their participation in the NAACP legal campaign promised a broadening base of membership and support.

Once again, Maryland provided an early testing ground for this phase of the NAACP campaign. After the successful completion of the *Murray* case, Thurgood Marshall turned his attention to the issue of teachers' salaries. Finding a plaintiff proved difficult; even supportive teachers feared being fired for making such a challenge. In an effort to provide some protection, Marshall developed a trust agreement, whereby a joint committee of the NAACP and the teachers' association arranged to indemnify any plaintiff who lost her/his job. William Gibbs, the principal of a four-room school in

[174] Tushnet, *NAACP Legal Strategy*, 71-73; Kluger, *Simple Justice*, 100-01

[175] Dabney quote in Tushnet, *NAACP Legal Strategy*, 74-77; Murray, *Song in a Weary Throat*, 115.

Montgomery County, Maryland, finally volunteered as a plaintiff. In June 1937, the Montgomery County school board agreed to equalize black and white teachers' salaries over a two-year period. During the course of the case, William Gibbs organized a branch of the NAACP, and after its successful conclusion, the black teachers association in Montgomery County pledged to take out NAACP memberships.

In the wake of victory in Montgomery County, equalization efforts sprang up throughout the state. Some school boards fought hard to undermine equalization efforts, refusing to renew contracts of certain teachers, and obstructing Marshall's efforts to obtain relevant documents and records. Marshall finally brought a suit against the Anne Arundel County school board, and won. The judge ruled that salary disparities were not justified by differences in level of achievement between black and white teachers, as the school board argued, but were due to racial discrimination alone. The black teachers won equalization, effective at the beginning of the next school year, September 1940. The following spring the Maryland state legislature mandated equalization of all teachers' salaries.[176]

In 1936, the Virginia Teachers' Association (VTA) raised a fund of $1,000 to support teachers who might be fired for suing for salary equalization. In the wake of his victory in Montgomery County, Marshall began working steadily with the state teachers association and local NAACP chapters in Virginia to identify potential plaintiffs. In October 1938, Marshall filed a petition for Norfolk teacher Aline Black seeking salary equalization. The following spring the school board voted to terminate her contract. The VTA's fund paid Black a year's salary; she went to New York to pursue graduate work, and the case was dismissed. In the fall, Marshall filed another petition for salary equalization on behalf of Melvin Alston, president of the Norfolk Teachers' Association. The NAACP won a favorable ruling from the Court of Appeals in *Alston v. School Board of City of Norfolk*, which found that the salary differential was based on race, in violation of the due process and equal protection clauses of the Fourteenth Amendment. In October 1940, the U.S. Supreme Court denied the school board's appeal for review, giving *Alston* broad application.[177]

During the 1940s, teachers around the South attempted to secure the implementation of the *Alston* ruling. By 1947, the NAACP had brought at least thirty-one cases, and could claim success in all but four. In some cities, such as Chattanooga, Tennessee and Louisville, Kentucky, the school boards acted quickly to comply with the petitioners' demands. However, in most cases, attorneys and their plaintiffs met with obstruction, delays, and evasions on the part of local school board officials. Increasingly, school board officials developed ways to submerge racial criteria, and using subjective measures, such as merit rankings, to avoid equalization.

In the end, the campaign to equalize teachers' salaries had narrowed the gap, but the overall salary differentials between black and white teachers remained significant. In 1931-32, black teachers as a whole in the South earned an average of fifty percent of what white teachers earned; by 1945-46, the percentage had climbed to an estimated sixty-five percent. NAACP attorney Robert Carter noted in a speech he drafted for Walter White in 1946, "the teachers' salary fight is now about over." The NAACP teacher salary campaign had advanced the erosion of segregation, but it was a slow, painstaking and costly process, which, in terms of the larger challenge, provided small returns.[178]

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[176] Tushnet, *NAACP Legal Strategy*, 59-65.

[177] *Ibid*., 77-80.

[178] *Ibid*., 88-103.

While the school campaign struggled to sustain some momentum on the legal front, the efforts of Houston, Marshall and others to broaden the base of civil rights activism in the South were richly rewarded during the war years. NAACP membership exploded during the early 1940s, growing from an estimated 18,000 in the late 1930s to more than 150,000 by the end of the war. The number of local branches proliferated, and they were linked by statewide conferences of branches, creating a strong infrastructure of support for the desegregation movement. By the end of the war, the national membership approached one half million.[179]

The growth of NAACP branches in the South and throughout the country reflected a broader change in black political consciousness and expectations, a change that began in response to the New Deal, and accelerated during World War II under the umbrella of the "Double V" campaign (victory at home and victory abroad). A. Phillip Randolph's March on Washington Movement compelled a reluctant President Roosevelt to establish the Fair Employment Practices Committee in 1941, identifying civil rights as an issue of national consequence. In 1944, the NAACP won a major legal victory in the field of voting rights when the Supreme Court, ruling in *Smith v. Allwright*, outlawed the all-white primary, eliminating what had been the greatest obstacle to black political participation in the South. When South Carolina ignored the court's ruling, and continued to bar blacks from voting in the state's Democratic primary in 1944, a group of black Carolinians organized the Progressive Democratic Party and sent a delegation to the 1944 Democratic convention to challenge the exclusionary policies of the regular party.[180]

At the same time, national and international trends supported a growing liberal consensus sympathetic to civil rights issues and concerns. Published to wide acclaim in 1944, *An American Dilemma*, Gunnar Myrdal's classic study on racial discrimination in America, highlighted the harsh contradiction between the reality of segregation and racial discrimination, and the fundamental values and principles of American democracy. While Myrdal appealed to the conscience of white America, the pivotal importance of the black vote in major northern states encouraged liberal Democrats to take a bolder stand on civil rights. After Democrats suffered major defeats in key northern districts in 1946 midterm elections, President Harry Truman appointed a Committee on Civil Rights to shore up support among black voters. The Committee's 1947 report, *To Secure these Rights*, called for "the elimination of segregation from . . . American life." The next year Truman issued his Executive Order 9981 calling for the desegregation of the Armed Forces.

Thurgood Marshall, who had succeeded Charles Houston as chief legal counsel in 1938, began laying the groundwork for a direct attack on the segregation system at the end of the war. While the end of segregation had been the major goal of the NAACP legal campaign from the start, there was considerable reluctance within black communities to move beyond the equalization strategy, particularly among black teachers. Indeed, Marshall was shocked to find that a number of northern black communities favored segregated schools. In the fall of 1947, Marshall confided in Roy Wilkins: "I am beginning to doubt that our branch officers are fully indoctrinated on the policy of the NAACP in being opposed to segregation. It is therefore obvious that we need to educate our branch officers and in turn the membership and, finally, the people in the need for complete support in this all out attack on segregation." As Marshall and his staff plotted legal strategies, they worked steadily to persuade their constituency that this was the right course.[181]

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[179] Sullivan, *Days of Hope*, 141-42

[180] *Ibid*.

[181] Douglas, "School Segregation in the pre-Brown North," pp. 732-39; Tushnet, *NAACP Legal Strategy*, 112-16.

In shaping a legal strategy to challenge the constitutionality of segregation per se, NAACP lawyers began experimenting with sociological arguments to demonstrate the inherent inequality of racial segregation. At this time, LULAC lawyers were implementing such a strategy in a challenge to school segregation in California filed by Mexican-American parents in Orange County, California. NAACP lawyers followed *Mendez v. Westminster* closely and filed an *amicus* brief.[182]

Gonzálo Mendez, a naturalized U.S. citizen, and his Puerto Rico-born wife Felicitas attempted to send their three children, Sylvia, Gonzálo Jr., and Geronimo to the 17th Street School, the elementary school Gonzálo had himself attended as a child. But times had changed; the Westminster school district, like their counterparts throughout Orange County, California, had drawn boundaries around Mexican neighborhoods, ensuring de facto segregation. Placement of children, furthermore, was also based on Spanish surnames and phenotypes. As the preeminent commentator on California life Carey McWilliams stated, "Occasionally the school authorities inspect the children so that the offspring of a Mexican mother whose name may be O'Shaughnessy will not slip into the wrong school." After their children were turned away, Gonzálo and Felicitas Mendez organized other parents, and [they] "persuaded the school board to propose a bond issue for construction of a new, integrated school." When the measure failed, the school board refused to take further action. Mendez then enlisted the help of LULAC and hired attorney David Marcus. On behalf of their children and 5,000 others, Gonzálo and
Felicitas Mendez with four other families filed suit against the Westminster, Garden Grove, Santa Ana, and El Modena school districts in Orange County in 1945.[183]

The superintendents reiterated both the tired stereotypes of the 19th century and the rhetoric of 20th century Americanization. The Garden Grove superintendent baldly asserted that "Mexicans are inferior in personal hygiene, ability and in their economic outlook." In addition to the image of "dirty" Mexican children, another school district chief noted that these youngsters needed separate schools given their lack of English proficiency, that they "were handicapped in 'interpreting English words because their cultural background' prevented them from learning Mother Goose rhymes."[184] David Marcus devised a two-fold strategy; he questioned the constitutionality of educational segregation and called in expert witnesses—social scientists who challenged these assumptions about Mexican American children and the supposed need for separate schools. Like Robert Alvarez fourteen years before her in the Lemon Grove case, eight-year-old Sylvia Mendez took the stand. "I had to testify because [school authorities] said we didn't speak English." Taking almost a year to formulate his decision, Judge Paul McCormick "ruled that segregation of Mexican youngsters found no justification in the laws of California and furthermore was a clear denial of the 'equal protection' clause of the Fourteenth Amendment." He further condemned separation for Americanization by stating that "evidence clearly shows that Spanish-speaking children are retarded in learning English by lack of exposure to its use by segregation. . ." Noting that since seventh graders at the El Modena "Mexican" school had higher standardized test scores than their peers at the white school, McCormick surmised that children were segregated not on pedagogical rationale but on their Spanish surnames.[185]

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[182] Tushnet, *NAACP Legal Strategy*, 119-120.

[183] Frank Barajas, "On Behalf of. . .," (graduate seminar paper, Claremont Graduate School, 1994), 1, 12, 26; Carey McWilliams, "Is Your Name Gonzales?." *Nation* Vol. 164 (March 15, 1947): 302; José Pitti, *et.al*., "A History of Mexican Americans in California," in *Five Views*, 238; *Los Angeles Times*, September 10, 1996. Quotes are taken from McWilliams, "Is Your Name," 302 and Pitti, *et. al*., 238, respectively.

[184] *Los Angeles Times*, September 10, 1996; McWilliams, "Is Your Name," 303.

[185] McWilliams, "Is Your Name," 302; Wollenberg, *All Deliberate Speed*, 127-128, 131-132; *Los Angeles Times*,

The school district appealed the decision, partly on a states' rights strategy, that is, the federal court had no jurisdiction in the matter. The importance of Judge McCormick's ruling was not lost on civil rights activists. *Amicus curiae* briefs were filed by the following organizations: American Jewish Congress, the American Civil Liberties Union, the National Lawyers Guild, the Japanese American Citizens League, and the NAACP. California Attorney General Robert W. Kenney even composed his own supporting brief. Nationally, hopes were high that this would be the test case before the U.S. Supreme Court. In McWilliams's words, "the decision may sound the death knell of Jim Crow in education." When the U.S. Ninth Circuit Court in 1947 upheld McCormick's ruling, the Orange County school districts decided to desegregate and drop the case, dashing the heightened expectations.[186]

Mendez v. Westminster assumes national significance through its tangible connections to *Brown v. Board of Education* in three interrelated areas. First, Judge McCormick in deliberating his decision relied not just on legal precedent but on social science and education research. As Charles Wollenberg noted, "much of the social and educational theory expressed by Judge McCormick anticipated Earl Warren's historic opinion in the Brown case." Indeed, the U.S. Supreme Court cited seven academic studies in its landmark 1954 ruling. Second, "it was the first time that a federal court had concluded that the segregation of Mexican Americans in public schools was a violation of state law" and unconstitutional under the Fourteenth Amendment because of the denial of due process and equal protection. This case posed a federal challenge, though limited in scope, to *Plessy v. Ferguson*. Third, the Anderson bill, passed in 1947, was the direct result of the *Mendez* case. This measure repealed all California school codes mandating segregation dating back to the 1850s and was signed into law by then Governor Earl Warren, who seven years later would preside over the Brown case.[187]

September 10, 1996; Barajas, "On Behalf of. . .," 33-34. Quotes taken from *Los Angeles Times*, McWilliams, "Is Your Name," *loc. cit*. and Wollenberg, *All Deliberate Speed*, 128, respectively.

[186]McWilliams, Is Your Name," 302; *Los Angeles Times*, September 10, 1996.

[187]Wollenberg, *All Deliberate Speed*, 128, 131-132; Barajas, "On Behalf of. . .," 33; San Miguel, *Let Them All take Heed*, 119; Pitti, *et.al*., "A History of Mexican Americans," 239. Quotes are from Wollenberg, *All Deliberate Speed*, 132 and San Miguel, *Let Them All Take Heed*, 119, respectively.

Mendez v. Westminster would also be used as a precedent in cracking school segregation in Texas and Arizona. Again, with the aid of LULAC, Mexican American parents, led by Minerva Delgado, successfully overturned the segregationist policies of local schools. In *Minerva Delgado v. Bastrop Independent School District* (1947), federal district Judge Ben Rice cited the Mendez case in crafting his own path-breaking decision. Moving beyond the California ruling, Rice "specifically declared unconstitutional the segregation of Mexican Americans in separate classrooms within 'integrated' schools." For monolingual Spanish speakers entering the first grade, exceptions could be made so they could receive the specialized instruction necessary to transition to integrated second grade classes.[188]

The legacy of the *Mendez* case, however, has been relatively forgotten. On the 50th anniversary of the ruling, the Orange County superintendent informed a reporter that he knew nothing of the case and the district had not planned any commemorative activity. Nonetheless, the Westminster schools of the 1990s are touted as "a model of integration" with youngsters of color representing two-thirds of the student body. Although recognizing that American life had changed over the last half century, Felicitas Mendez in 1996 expressed concern over rising nativism reminding her of a time "when whites told us to stay in our place."[189] *Mendez v. Westminster* was certainly a crucial case in the multiple struggles for school desegregation, one that forecast the rationale of the Warren Court in *Brown v. Board of Education.*

1950: A Turning Point for the NAACP Campaign

At around the same time as the *Mendez* case, NAACP lawyers began preparing to bring two cases seeking the admission of blacks to law schools in Oklahoma and Texas. In Oklahoma, the NAACP represented Ada Lois Sipuel, whose application to the University of Oklahoma was rejected on racial grounds. After the District Court and the Oklahoma Supreme Court upheld the University's action, the NAACP won review of the case in the U.S. Supreme Court. The Court ruled on *Sipuel v. Oklahoma State Regents* in January 1948. In a narrow ruling, the Court relied on *Gaines*, ruling that Oklahoma must provide Sipuel with a legal education "in conformity with the equal protection clause of the Fourteenth Amendment." The state then could either admit Sipuel to the white school, or create a separate law school for blacks.

Oklahoma officials immediately set about establishing a law school for blacks in the state capitol, where students would have access to the state law library. One new student enrolled.[190] Meanwhile, several black students applied for admission to various graduate programs at the University of Oklahoma. After his application to the doctoral program in education was rejected, George McLaurin sued the university. Rather than set up a separate program for blacks, the regents authorized segregated classrooms within the University, and approved McLaurin's admission. In each of his classes, McLaurin was required to sit in an anteroom. McLaurin and the NAACP continued to pursue the case, charging that the university's response was inadequate, and in violation of McLaurin's constitutional rights.[191]

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[188]García, *Mexican Americans*, 57-58; San Miguel, *Let Them All Take Heed*, 123-127. Quote is from García, *Mexican Americans*, 57.

[189]*Los Angeles Times*, September 10, 1996.

[190] Sipuel waited until the black law school closed eighteen months later. She was then admitted to the previously all white school, and graduated in 1951. Tushnet, *NAACP Legal Strategy*, 122-23.

[191] *Ibid*., 125.

While the McLaurin case moved forward, the NAACP supported Herman Sweatt's suit against the University of Texas, filed after the Law School rejected his application. The trial court gave the state six months to establish a black law school. After plans for a black law school at Houston stalled, the university arranged to house a black law school temporarily in Austin, where students would have access to the state library, and be taught by members of the Law School Faculty from the University of Texas. Delay on the part of the university enabled Marshall to win a decision from the Court of Appeals, reversing the judgment of the trial court and sending the case back to be fully tried.

Laying the foundation for a direct challenge to *Plessy*, Marshall invited the court to look beyond physical facilities and formal curriculum to consider other less tangible measures of difference. Summing up Marshall's approach, legal scholar Mark Tushnet wrote: "The undeniable differences between the schools lay in their extracurricular, intangible aspects. These included the absence of a law review and moot court program at the black school, and the inability of a school with a projected enrollment of ten students to support such activities." The argument then was easily broadened "to include all sorts of non-curricular differences between schools: reputation, the opportunity for developing professional contacts," and other such factors. "Once those differences became relevant," Tushnet continues, "the sociological argument could be deployed fully." The Texas courts rejected Sweatt's claim, opening the way for a major Supreme Court challenge.[192]

In 1950, the NAACP was at a critical turning point. The Supreme Court agreed to hear *Sweatt v. Painter* and *McLaurin v. Oklahoma State Regents for Higher Education*, along with *Henderson v. United States*, a case concerning segregation on a railroad dining car. By then, at the height of the Cold War, the weight of public opinion had begun to shift against state-sponsored segregation. While acknowledging the dire warnings of riots and bloodshed coming from the white South, the *New York Times* suggested that many hoped that the Court would finally strike down segregation. This segment of opinion believed that "a reversal of segregation policy would be a tremendous affirmation of American democracy [and] a triumphant answer to the Communists, both here and abroad, who say that the United States talks but does not practice democracy."[193]

In both the Sweatt and McLaurin cases, the court fell short of overturning *Plessy*, but accepted the NAACP's broad measurements in determining whether the education provided for the black plaintiffs in Texas and Oklahoma fulfilled the mandates of the Constitution. Writing for the majority in the Sweatt case, Chief Justice Fred Vinson observed: "the University of Texas Law School possesses to a far greater extent [than the state's new law school for blacks] those qualities which are incapable of objective measurement but which make for greatness in a law school. Such qualities . . . include reputation of the faculty, experience of the administration, position and influence of the alumni, standing in the community, traditions and prestige." In the McLaurin case, the court ruled that the separation of McLaurin within the University of Oklahoma "handicapped" the appellant "in his pursuit of effective graduate study." Chief Justice Vinson wrote: "Such restrictions impair and inhibit his ability to study, to engage in discussions and exchange views with other students, and, in general, to learn his profession." In both cases, the court ordered immediate relief – full and equal admission to the previously all-white institutions.[194]

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[192] *Ibid.*, 125-28.

[193] *Ibid.*, 129-31.

[194] Opinions quoted in Waldo Martin, *Brown v. Board of Education: A Brief History with Documents* (Boston: Bedford/St. Martin's, 1998), 116-120; Tushnet, *NAACP Legal Strategy*, 130-33.

The court's rulings in these cases signaled that the justices were prepared to overturn *Plessy*. Within weeks, Thurgood Marshall presided over a conference of lawyers to map out a frontal attack on segregation. At the end of the meeting, Marshall announced "We are going to insist on non-segregation in American public education from top to bottom – from law school to kindergarten." In July 1950, the NAACP Board of Directors adopted a resolution stating that all future education cases would seek "education on a non-segregated basis and that no relief other than that will be acceptable."[195]

PART THREE: (1950-1974)
FROM *BROWN* (1954) TO *MILLIKEN* (1974): MAKING AND UNMAKING SCHOOL DESEGREGATION

INTRODUCTION: AN HISTORICAL OVERVIEW

The continuing struggles of communities of color to achieve equal educational opportunity accelerated in the post-World War II era. This acceleration resulted from the coming together of a variety of factors. In general, communities of color, especially African Americans, Mexican Americans, Native Americans, and Asian Americans had vigorously supported the US war effort. As a result, most people of color came out of that experience with heightened hopes for better futures. Deep-seated commitments to educational equity, regardless of race and ethnicity, were crucial to those hopes. The democratic and egalitarian rhetoric of the wartime and postwar years fed these hopes. Likewise, in the often-booming world of the post-World War II US economy, individuals and communities of color rightly saw education as the key gateway to economic and social mobility for themselves and their progeny.

The long shadow of *Brown* dominates the period from 1950 to 1974. Wherever there had been optimism in the immediate aftermath of the *Brown* decision, it soon gave way to the sobering reality that the school desegregation struggle in many ways had just begun. A key development was that the many-sided struggles of communities of color for educational opportunity shifted gears and began to expand the fight with new weapons at their disposal. These new weapons notably included pro-school integration rulings and the courts. It must be borne in mind, moreover, that these often-fierce battles over school desegregation evolved as integral components of the Civil Rights-Black Power Movement, the Chicano Movement, the Asian American Movement, and the Native American Movement.

This period can be subdivided into three subperiods. The first subperiod runs from roughly 1950 to 1955 and is fundamentally the story of the *Brown* decision, its immediate origins, development, and consequences. The second subperiod, 1956 to 1968, began with the courageous efforts of communities of color, especially African Americans, to realize the promise of desegregated schools offered by the *Brown* decision. At the same time, this struggle had to contend with the powerful white resistance to the implementation of *Brown*, capped by the formal Massive Resistance campaign of the white South.

This subperiod likewise includes the promise of Title VI of the 1964 Civil Rights Act that gave the federal executive branch broad enforcement powers, including the power to withhold funds from school districts that continued dual, or segregated, public school systems. Even more effective in promoting school desegregation was the 1965 Elementary and Secondary Education Act. In the wake of the threat of the loss of federal education funds for the persistence of dual systems, there was a shift in this period from evasion to token compliance. The policy shift from blatantly discriminatory pupil placement

[195] Tushnet, *NAACP Legal Strategy*, 136.

programs to more ostensibly race-neutral, but almost equally discriminatory, freedom of choice plans characterized this shift.

The third subperiod, 1968 to 1974, vividly witnessed the prospects and perils of compliance with the imperatives of court-ordered desegregation. These lower court judgments often featured the highly controversial tactic of busing to achieve racial balance in schools. There are numerous important Supreme Court rulings in this period, which shape the development of the school desegregation movement. Three are pivotal. First, in the 1968 decision *Green v. County School Board of New Kent County* (Virginia), the court ruled that public school desegregation must be eliminated not only "root and branch," but promptly. The delaying tactic of "freedom-of-choice" that allowed students to select the school they wanted to attend was found to be unacceptable to the Court.

Second, in *Swann v. Charlotte-Mecklenburg Board of Education* (1971), the court sanctioned busing as a remedy for desegregating unified city-county systems where residential segregation had been shown to be a stumbling block to desegregation efforts. After *Swann*, busing as a tactic to achieve desegregated schools — that is, to achieve a specified racial balance within the schools — increased. Third, and last, the decision in *Milliken v. Bradley* (1974) disallowed metropolitan school desegregation plans, or plans reaching across city-suburban lines, as too great and unfair a burden on suburbs. While the decisions in *Green* and *Swann* were plainly supportive of the school desegregation movement, *Milliken v. Bradley* was a big setback. Indeed the latter decision signaled a growing weariness with the divisive issue of school desegregation and an increasing willingness to see the mandate of *Brown* and its legacy in more limited ways.

BROWN: A HISTORICAL OVERVIEW

The story of *Brown* itself constitutes the first subdivision. The *Brown* decision initially consisted of five cases that the Supreme Court grouped together and decided as one. The Court considered these cases collectively because although the facts and details of the various cases obviously differed, the substantive issue in each was the same: the constitutionality of laws mandating and, practices institutionalizing, separate and unequal schools for black and white children.

In examining the constitutionality of legalized Jim Crow education for black school children, the court necessarily considered two central concerns. First, the court had to consider the harsh reality that separate and unequal — often grossly unequal — was the norm under Jim Crow. As a result, the plaintiffs asked the court to declare such schools a violation of the Fourteenth Amendment's guarantee of the individual's right to "equal protection before the law." Otherwise stated, the plaintiffs asked the court to overturn the legal precedent which protected Jim Crow*: Plessy v. Ferguson* (1896).[196]

No longer did the NAACP LDF under Thurgood Marshall's vigorous leadership merely seek the parity legally enshrined in *Plessy* but ignored in practice. Instead of focusing on equalization measures like facilities, budgets, and teachers' salaries, Marshall and his team now sought the end of Jim Crow schools themselves as inevitably unequal. Desegregation, or integration, replaced equalization as the aim of their legal strategy as they had long intended.[197]

Second, the court chose to consider the impact of segregated schools on white and black children, by

[196] See the Appellants' Brief (1952), excerpted in Martin, *Brown v. Board of Education*, 137-141.

[197] Tushnet, *The NAACP Legal Strategy*.

extension considering the broader impact of segregation on American society. In essence, the court found the impact to be negative. This use of expert social scientific argument to make a legal point, or sociological jurisprudence, has proven to be controversial. Nevertheless, this sociological argument speaks volumes about the larger context of the *Brown* decision as well as the decision's ramifications.[198]

In his history of the *Brown* decision, *Simple Justice*, Richard Kluger observed that "in May of 1951 seventeen states required the segregation of public schools, four other states permitted the practice if local communities wished it, and in the District of Columbia the custom had prevailed for nearly ninety years."[199] This was the world *Brown* changed forever.

The fight for a quality education for black children in and around Summerton, South Carolina in Clarendon County featured the likes of: Harry Briggs, father of five, navy veteran, service station attendant, and his wife Liza, a chambermaid; Levi Pearson, father of three, farmer; local black attorney Harold Boulware; and local community leaders like Reverend Joseph A. DeLaine. Throughout the black South, the school desegregation movement called forth extraordinary courage on the part of such ordinary working-class folks like the Briggs, who lost their jobs, and Pearson, whose farm suffered, as well as that of the middle class preacher DeLaine, who lost his job as a teacher. As historian John Dittmer shows in his study of the Civil Rights Movement in Mississippi, local, often unheralded people, were indispensable to these kinds of grassroots insurgencies.[200]

J. Waties Waring was a rare sympathetic white southern jurist who proved crucial to the strategy in what came to be *Briggs v. Elliott* (1951). The case was one of several that would be included with Brown as part of that epochal litigation once the cases reached the Supreme Court. At the time of local deliberations in Briggs v. Elliot, however, Judge Waring understood well the gaping disparity between the all-white Summerton High School and the all-black Scott's Branch High School. Having previously seen the schools in the county's dual system, he later recalled that "The white schools... were fairly respectable-looking. In the towns, they were generally of brick and some of them had chimneys, running water.... The Negro schools were just tumbledown, dirty shacks with horrible outdoor toilet facilities."[201]

The trial itself featured Marshall and his team battling the local school district led by nationally eminent lawyer-politician John W. Davis, who had run for President of the US in 1924, and eminent South Carolina attorneys Robert M. Figg, Jr. and S. Emory Rogers. The strategy of the defense was to concede inequality between black and white schools. At the same time, South Carolina showcased a recently and hastily created massive campaign of immediate school equalization to be underwritten by the state government for Clarendon County and the rest of the state. In fact, the State Educational Finance Commission was set up precisely to blunt the thrust of the opposition's case in *Briggs v. Elliott*.

The three-judge panel that heard the case consisted of two segregationists, George B. Timmerman and John Parker, and anti-segregationist Judge Waring. The arguments of the plaintiffs were straightforward. The plaintiffs advanced two key positions. First, they contended that in light of the

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[198] Daryl Scott, *Contempt and Pity: Social Policy and the Image of the Damaged Black Psyche, 1880-1996* (Chapel Hill: UNC Press, 1997).

[199] Richard Kluger, *Simple Justice,* 327.

[200] John Dittmer, *Local People* (Urbana: University of Illinois Press, 1994).

[201] Kluger, *Simple Justice*, 302.

blatant and gross inequality between the white and black schools, immediate school integration, not the panacea of equalization, was the proper remedy. Second, they contended that the precedent in the case, *Plessy*, had to be overruled.

The defense team maintained that equalization was the remedy consistent with southern tradition as well as the precedent of *Plessy*. Their argument was also twofold. First, they asked the court to reform the dual system through equalization. Second, they asked the court to sustain *Plessy*. Not surprisingly, Judges Timmerman and Parker supported the defense case. Equally unsurprisingly, Judge Waring wrote a ringing dissent in which he contended that: "Segregation is per se inequality."[202] Having anticipated the eventual decision of the lower court, the NAACP LDF was already planning to appeal *Briggs v. Elliott* to the Supreme Court, all the while working on similar school desegregation cases.

One of those cases, *Davis v. Prince Edward County, Virginia* (1952) grew out of a little-known but significant episode in the history of the early modern Civil Rights Movement as well as the related history of black student activism. On April 23, 1951, at Robert Russa Moton High School (NHL, 1998) in Farmville, Virginia, sixteen-year old Barbara Johns led a walkout and strike against the failure of the local school board to provide its black citizens with adequate school facilities. The rhetoric of the protest went beyond the notion of equalizing the black and white schools, arguing for integrated schools as the most immediate and most viable solution to the unconscionable inequity between the black and white schools.

As a student-led insurgency, the strike highlighted an important, yet often under- and poorly represented aspect of the modern Black Freedom Struggle, notably the role of students and student-led activism in the school desegregation movement. Inspired by her uncle, the activist minister Vernon Johns, Barbara Johns, the strike's leader, diverged from the pattern of male-dominated leadership of most well known grassroots actions. She also epitomized the often unheard voice of the innumerable black students in the *Brown* years who chafed against the restrictions of Jim Crow, especially in education.[203]

The commitment and bravery of the student activists encouraged the NAACP and pioneering black civil rights lawyers, Spottswood Robinson and Oliver W. Hill, to litigate their cause. Like Thurgood Marshall, Robinson and Hill were products of Howard University Law School and Charles H. Houston's vision of an activist core of black lawyers committed to the dismantling of Jim Crow. On May 23, 1951, Robinson filed a federal suit demanding that Virginia's state law mandating school segregation be outlawed. In Virginia, however, there would be no Judge J. Waties Waring hearing the case.

The three-judge court in Virginia — Armistead Dobie, Sterling Hutcheson, and Albert Bryan — were staunch segregationists deeply committed to Virginia's Jim Crow way of life. As Kluger has written: "All three judges... were lifelong Virginians deeply versed in federal and state law and not given to apostasy." As a result, the defense team, which included Marshall's right-hand man Robert Carter, argued the case as a prelude to what the plaintiffs envisioned as a case to be eventually appealed to the Supreme Court. As Oliver Hill noted: "There was never any doubt about the outcome of the trial." Hill further explained: "We were trying to build a record for the Supreme Court."[204]

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[202] Martin, *Brown v. Board of Education*, 126-37, 137.

[203] Kluger, *Simple Justice*, 451-79.

[204] *Ibid*., 487.

The arguments in the case paralleled those in *Briggs v. Elliott*. The plaintiffs not only sought the end of Virginia's school segregation statue, but also sought to have the precedent of *Plessy* invalidated. Well-connected, corporate lawyer T. Justin Moore led the successful defense argument. As in Clarendon County, the defense readily acknowledged inequality between black and white schools in Prince Edward County. At the same time, they maintained that the state was in the throes of a vigorous equalization campaign. They also argued that segregation was both fundamental to Virginia's legendary mores and protected by *Plessy*. Again, the ruling for the defense cleared the way for the expected appeal to the Supreme Court.[205]

Two Delaware cases, *Belton v. Gebhart* (1953) and *Bulah v. Gebhart* (1953), originated in ways similar to the previous cases. Both featured ordinary black citizens banding together to seek educational opportunity for their children. Ethel Belton along with seven other parents from Clayton, Delaware sued for admission of their children to the all-white Claymont High School in their hometown. They believed that it was patently unfair for their children to be bussed nine miles south to downtown Wilmington and the one all-black Howard-Carver High School with its unequal physical plant and academic offerings. When the State Board of Education rejected their plea to have their children admitted to the Claymont School, the black parents sued the state with attorney Louis Redding providing the critical legal assistance. Redding was Harvard Law-trained and the first black person admitted to the Delaware bar. Jack Greenberg—a Columbia

[205] *Ibid.,* 478-507.

Law-trained, Jewish lawyer from the NAACP's LDF's main New York office—was also part of the legal team. Their demand was to have Claymont High School integrated.

In a related spirit, Sarah Bulah of Hockessin, Delaware sought state-financed school bus transportation for her adopted daughter Shirley Barbara Bulah like that provided for white children in Delaware's public schools. The state and local school boards balked because, they claimed, there were no buses for black school children and it was unlawful for Shirley Bulah to ride the bus with white school children. Incensed, Sarah Bulah had Redding file the necessary papers to bring suit against the State Board of Education demanding that the local school board integrate the public schools.

Both cases were heard by a sympathetic state court judge, vice chancellor of Delaware's Chancery Court, Collins Jacques Seitz. Redding and Greenberg had previously encountered Seitz as the presiding judge in *Parker v. University of Delaware* (1950). The plaintiffs in that case had sought admission to the University of Delaware on the grounds that the state colleges for blacks were inferior. After inspecting the black and white colleges, Judge Seitz found the black ones "grossly inferior" and ruled that the plaintiffs be admitted immediately to the all-white University of Delaware. The state did not appeal. As a result, the University of Delaware became the first state university to desegregate its undergraduate student body under a court decree.

Seitz's ruling in *Parker v. University of Delaware* augured well for the black plaintiffs in *Belton v. Gebhart* and *Bulah v. Gebhart.* Indeed siding with the plaintiffs in his decision, Judge Seitz ruled that their right to relief was personal, as the presiding judge had found in *Gaines*. Consequently, precisely because their right to relief was personal, the plaintiffs were entitled to immediate relief in the form of admission to the formerly all-white schools they demanded to attend. Kluger writes, "For the first time, a segregated white public school in America had been ordered by a court of law to admit black children." Marshall was ecstatic. He argued that "This is the first real victory in our campaign to destroy segregation of American pupils in elementary and high schools."[206]

The formal challenge to school segregation in the nation's capitol of Washington, DC grew out of a working-class protest led by a local black barber, Gardner Bishop, in the late 1940s. Outraged over conditions at the overcrowded and ill-equipped all-black Browne Junior High, Gardner and his working-class supporters formed their own organization — Consolidated Parents Group — apart from the middle class-dominated PTA. When the Board of Education refused to respond to the pleas of the group for better schools, the group took action. In late 1947 Bishop led a group of around forty students to a Board of Education meeting where Bishop stated the intention of the group to boycott in order to force the board to improve black schools. In the first few days, the action included virtually all of Browne Junior High's 1800 students.[207]

Pickets notwithstanding, enthusiasm among the student picketers and within the Consolidated Parents Group dwindled over time as the board stalled. Joining forces with the venerable civil rights giant Charles Houston, Bishop and his group took Houston's advice and began to file a series of equalization suits against the Board of Education. This cumbersome approach sapped the energies of the group as well. So did the District of Columbia's Court of Appeals decision in *Carr v. Corning* (1950) against the black plaintiffs, led by the Browne PTA, who sought to have school segregation declared unconstitutional.

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[206] *Ibid.,* 449.

[207] *Ibid*., 508-15.

Judge Henry Edgerton's dissent, however, was insightful and spoke to the gathering opposition to the logic and morality of *Plessy*. It not only acknowledged the blatant inequality between black and white schools, the dissent also spoke out against the racism at the heart of school segregation. Speaking to the disingenuous *Plessy* rationale which maintained against plain facts that enforced legal separation did not stamp blacks with a stigma, Judge Edgerton noted that "Segregation of a depressed minority means that it is not thought fit to associate with others. Both whites and Negroes know that enforced racial segregation in schools exists because the people who impose it consider colored children unfit to associate with white children."[208]

Shortly thereafter, in the wake of Houston's untimely death of a heart condition, Bishop followed Houston's deathbed advice and pursued Howard University Law Professor James Madison Nabrit, Jr. to take up the cause of the Consolidated Parent's Group. The meeting was fortuitous. Not only did Nabrit assume the position as the group's legal advisor, but he also convinced the group to shift its legal strategy from equalization to a full-scale assault on school segregation.

Given that the District of Columbia operated under a unique legal and constitutional status, the legal line of argument that Nabrit proposed did not rest upon the by now standard reliance on the Fourteenth Amendment's equal protection clause. That particular clause necessitated unlawful 'state' impositions against the rights of citizens, and the District of Columbia was not technically a 'state.' Instead, Nabrit offered a legal strategy built around the Fifth Amendment's more broad-based protection against unreasonable restrictions against a citizen's rights without due process.

Equal educational opportunity, represented in this instance by the right to attend the school of one's own choosing, was not to be denied without meeting the tests of reasonableness and due process. Neither *Plessy* itself nor the policy of enforced racial segregation of the district's public schools met these tests, in Nabrit's brief. In other words, Nabrit shifted the burden of proof from the black plaintiffs to the District of Columbia's Board of Education to show the reasonableness of the policy and its compelling public purpose.[209]

Soon thereafter, twelve-year old Spottswood Thomas Bolling, Jr. was one of eleven black students led by Gardner Bishop to the new all-white John Philip Sousa Junior High School on September 11, 1950. The black students had been assigned to the all-black Shaw Junior High which Kluger described as "forty-eight years old, dingy, ill-equipped, and located across the street not from the velvet green of a golf course but from The Lucky Pawnbroker's Exchange. Its science laboratory consisted of one Bunsen burner and a bowl of goldfish."[210]

When the students were refused admission to Sousa Junior High, they sued the Board of Education. *Bolling v. Sharpe* resulted. Not surprisingly, Nabrit's legal strategy did not convince United States District Court Judge Walter M. Bastian, who in April 1951 sided with the District of Columbia's Board of Education. Judge Bastian upheld the District's segregation policy as consistent with *Plessy*, as had the ruling in *Carr v. Corning*. In October 1952 before a hearing in the Court of Appeals could take place, the Supreme Court agreed to hear arguments in *Bolling v. Sharpe* that December along with the other school desegregation cases. *Brown* was fast taking shape.

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[208] Judge Henry Edgerton's dissent cited in *Ibid.,* 517.

[209] *Ibid.,* 521.

[210] *Ibid.*

Brown v. Board of Education of Topeka, the lead case, grew out of local black discontent in Topeka, Kansas with the segregation of schools at the elementary level as opposed to the secondary level where the schools were in fact integrated. One issue in the case was the hardship imposed on many black students who had to bypass white elementary schools to get to a black one. Another issue was the alleged psychological harm, which the enforced separation caused children, black and white. The vigorous local leadership of newly elected NAACP President McKinley Burnett proved crucial in pushing the Topeka case forward. In his role as head of the local organization he launched a two-year campaign, 1948-1950, to convince the Topeka School Board to integrate the City's elementary schools. By the summer of 1950, he cautioned the School Board that they had been given two years to prepare for what was coming. Along with attorneys for the local NAACP Charles Scott, John Scott, and Charles Bledso, and organization secretary Lucinda Todd, Burnett set out to organize a legal challenge.

The group contacted the New York office of the NAACP LDF for help. By the fall of 1950 the NAACP in Topeka had developed a roster of 13 families who volunteered to become the case plaintiffs. The parents were instructed, by the local attorneys, to attempt to enroll their children in a white school closest to their home and report back to the NAACP the details of their experience. The refusal to afford these African American parents the right to enroll their children in certain public schools was the basis for the class action suit against the Topeka Board of Education. The NAACP filed their suit in Federal District Court in February of 1951. Although this case involved thirteen parents on behalf of their children, the assignment of lead plaintiff was given to the only male among their ranks, Oliver L. Brown. As a result the Kansas case became known as *Oliver L. Brown et. al. v. the Board of Education of Topeka* (Sumner Elementary School/Monroe Elementary Schools, NHLs, 1987) and his name would become synonymous with one of the most important cases in U.S. Supreme Court history.

The actual trial, like all of the others, featured extensive comparative testimony about measurable variables like physical plants and expert testimony about the psychological impact of school segregation on white and black school children. In *Briggs v. Elliott*, the Delaware cases of *Belton v. Gebhart, Bulah v. Gebhart*, and *Davis v. Prince Edwards County*, the use of psychological testing through Kenneth and Mamie Clark's doll test proved useful, though not at all clear-cut. In those cases, the results of doll tests with subjects for those communities were part of the actual trials.

Simply put, the test asked a group of black and white children a series of highly suggestive questions about the prettiness and desirability of both the white and black dolls. The responses illustrated not just aesthetic and personal choices, but according to the Clarks, the responses revealed a decided cultural and social preference for the white dolls. They correlated this preference with the greater esteem of whiteness and the lower esteem of blackness. Segregation, they extrapolated from this finding, mirrored and exacerbated this racist bias. The core of their argument was that the tests revealed that school segregation undermined the self-esteem of black school children because separate and unequal black schools stigmatized black school children as inferior. While critics within the NAACP and outside of it found the tests too soft, impressionistic, and open to doubt, others — including the lawyers who used the data — found them compelling even if imperfect.[211]

The court's unanimous decision handed down by Judge Walter Huxman, a former governor of Kansas, found for the Topeka Board of Education. The court ruled that the board did not operate substantially unequal schools for white and black children. It also found that the decisions in *McLaurin* and *Sweatt*

[211] Scott, *Contempt and Pity*, 119-36.

had not substantially eroded the mandates bracing Jim Crow, like *Plessy*. In the judgment of the court, therefore, the segregated system at the elementary levels was legal. Interestingly enough, though, the court did find the social scientific evidence cogent, even if not sufficient to rest a case for overruling school segregation upon. Drawing upon sociologist Louisa Holt's testimony, Finding VIII noted:

> 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.[212]

The NAACP LDF lawyers, Mamie and Kenneth Clark, and the host of like-minded social scientists, along with the gathering chorus of supporters for the evolving *Brown* cause, agreed. Indeed, they could not have put the social psychological and cultural arguments for school desegregation any better.

Collectively identified as *Brown v. Board of Education*, the group of school desegregation cases argued separately and together before the Supreme Court in the early 1950s proceeded in three discernible stages. In the initial round of arguments in late 1952, the court heard both sides set forth the principal arguments recounted earlier in the lower courts. In general, the plaintiffs led by Marshall contended that Jim Crow schools violated the right of the black schoolchildren to equality before the law (or in the case of *Bolling v. Sharpe*, their Fifth Amendment right to due process). They also argued that as the controlling precedent sustaining Jim Crow, *Plessy* should be overturned. The defendants, led by John W. Davis, maintained that segregated schools were indeed consistent with custom and law. While the plaintiffs wanted desegregated schools forthwith, the defendants wanted to maintain dual systems but also to reform them. The defendants thus saw the equalization of black and white schools as a viable solution to the dilemma of Jim Crow schools. The plaintiffs saw it as an unacceptable compromise.[213]

[212] Cited in Kluger, *Simple Justice*, 424.

[213] Martin, *Brown v. Board of Education*, 137-55.

In this initial stage, Chief Justice Fred Vinson led a fractured court which privately apparently had a majority leaning toward the plaintiff's position, including overthrowing *Plessy*. In the second stage of the case, the court decided that they needed to hear a new round of arguments as to whether or not the framers of the Fourteenth Amendment intended the statute in favor of or against separate schools for blacks and whites. The defendants argued the case that the framers had intended the amendment to favor separate schools, while the plaintiffs argued the opposite. Not surprisingly, the results of the debate were inconclusive.

With the death of Chief Justice Vinson, Earl Warren ascended to the court as the new Chief Justice. Now the court had a skilled operative who could fashion the kind of unanimous decision that would give the necessary stature to a ruling on an issue of this magnitude. When Chief Justice Warren issued the court's decision on May 17, 1954, it was in fact unanimous. The court found separate schools for black and white schoolchildren necessarily unequal. As such, these dual systems were a clear violation of the constitutional rights of the plaintiffs. For all intents and purposes, *Plessy* was legally and constitutionally dead. This decision is often referred to as *Brown I*.[214]

Issued the following year after another round of arguments before the court, *Brown II* spoke to the contentious issue of the remedy in the case. This decision was the direct result of the third state of the court's deliberations. While the plaintiffs argued for immediate school integration, the defendants argued for gradualism. There was much concern among the justices and within the nation-at-large about how extreme white opposition to the decision might be, especially in the South. The plaintiffs argued that in light of the present and personal nature of the wrongs to be righted that the only proper course of relief was immediate school integration. This position did not prevail.

The actual remedy as fashioned by the court was deliberately ambiguous. That decree — that the racially segregated schools should integrate with "all deliberate speed" — thrilled few.[215] Nevertheless, with this mandate, the school desegregation movement entered a new phase where the overriding goal became the replacement of dual systems with unitary ones as expeditiously as possible. Unfortunately, those committed to school desegregation far too often underestimated their opponents.

It is worth noting that the court exercised restraint and sought cooperation between parties when returning public school cases to the federal and state attorneys general for comment. It is clear, therefore, that the judicial activism which is so often criticized regarding school desegregation was in large measure a response to segregationist opposition to the demands of school integration.

EVADING AND OPPOSING *BROWN* AT THE K-12 LEVEL: 1956-1968

The second subdivision treats the period from 1956 through 1968. Indeed, the period after the 1955 "all deliberate speed" remedy of *Brown II* through the provisions of the Civil Rights Act of 1964 were especially difficult and revealing. Title IV of the Act authorized the United States Office of Education to provide all necessary guidance to school boards constructing desegregation plans. It also empowered the U.S. Attorney General to file suits when needed to enforce school desegregation. Title VI of the Act provided that if federally supported programs in a district were found to be racially discriminatory, the district's federal education funds could be stopped. In 1968, the U.S. Supreme Court's decision in *Green v. County School Board of New Kent County* demanded more effective and quantifiable

[214] *Ibid*., 156-74.

[215] *Ibid*., 175-98.

measures of desegregation. As a result, evasions such as "freedom-of-choice" plans and other forms of token compliance were no longer acceptable.[216]

Throughout these years there were innumerable, at times exceedingly difficult, even heroic, efforts to desegregate schools throughout the South and the Southwest. In spite of the black- and Chicano-led grassroots efforts to desegregate schools and support from groups like the interracial Southern Regional Council, white-dominated school boards throughout these regions vigorously resisted. Subterfuge and evasion were common. In a counterinsurgency often referred to as Massive Resistance, southern state governments and white southern leaders and officials were openly hostile. One hundred southern congressmen signed the 1956 Southern Manifesto that vowed to resist *Brown* and to fight to maintain segregation. Correspondingly, the federal government was typically disengaged and ineffective.[217] Not surprisingly, therefore, school desegregation in the South proceeded with very little speed, or in many places, no speed at all. On balance, the school desegregation movement stalled in this period.

The destructive impact of Massive Resistance at the local level reverberated throughout the South. White resistance to school integration reached a fever pitch in local districts and within state governments as staunch segregationists, like Texas Governor Allan Shivers, fought school integration tooth and nail. Fifteen miles southeast of Fort Worth in the hamlet of Mansfield, Texas, with roughly 350 blacks out of a total population of 1,456, the struggle over school desegregation lit a fuse which foreshadowed the tumult at Little Rock. Historian Robyn Ladino stressed that the court's mandate to immediately integrate Mansfield's public schools "was the first in Texas history to order a local school board and school district to integrate a secondary school in accordance with the Supreme Court mandates of *Brown I* and *Brown II*." The court's decree precipitated a crisis dominated by the violent and racist machinations of staunch white segregationists, including mob action, stretching over a ten-day period. In fact, the furor became a national news story. Texas Governor Shivers made a bad situation worse by using his power, including mobilizing the state's Texas Rangers, to enforce segregation. Unlike Little Rock, however, there was no federal intervention on behalf of the law and the effort to integrate the public schools in Mansfield failed. It was not until 1965, nine years later, faced with the threat of losing federal funds if they did not integrate, that white school officials in Mansfield consented to integration.[218]

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[216] Francis M. Wilhoit, *The Politics of Massive Resistance* (New York: Brazilier, 1973), 204; Hugh Davis Graham, *The Civil Rights Era: Origins and Development of National Policy* (New York: Oxford, 1990), 82, 83.

[217] Numan Bartley, *The Rise of Massive Resistance: Race and Politics in the South During the 1950's* (Baton Rouge: Louisiana State University Press, 1969); Robert Frederick Burk, *The Eisenhower Administration and Black Civil Rights* (Knoxville: University of Tennessee Press, 1984).

[218] Robyn Duff Ladino, *Desegregating Texas Schools: Eisenhower, Shivers, and the Crisis at Mansfield High* (Austin: University of Texas Press, 1996), 3, 93, 142.

The Mansfield story is important as an example of at least two themes in the school desegregation efforts in this era. First, there was the extraordinary bravery and tenacity of local blacks like T. M. Moody, John F. Lawson, Mark Moody, and their families-- who endured ostracism within their own community, violence, intimidation, and economic reprisals from whites-- in their efforts to integrate Mansfield's public schools. The local NAACP chapter was extremely supportive as was black lawyer L. Clifford Davis and the NAACP Legal Defense Fund, especially Thurgood Marshall. Second, in spite of several favorable court rulings, notably the Fifth Circuit Court's ruling in *Jackson v. Rawdon* (1956), intense local opposition aided by that of Governor Shivers effectively blocked school integration and, at the federal level, Eisenhower did nothing to enforce *Brown*.

Indeed, comparable crises occurred throughout the South "in the movement to integrate town high schools entrenched in the southern traditions of segregation. The Mansfield High School crisis became a prologue for what unfolded at Central High School (NHL, 1982; NHS, 1991) in Little Rock a year later."[219] This last observation is a third measure of the significance of the Mansfield story.

At about the same time in Sturgis and Clay, Kentucky and Clinton, Tennessee, mob action also resulted because of school integration. In these states, however, the governors — Kentucky's A. B. Chandler and Tennessee's Frank Clement — responded differently. They called their state's National Guard to enforce integration and thus enforce the law. Chandler explained that "Mobs led by bad tempered men were taking over. You can't let mobs enforce the law. The rights of people were at stake."[220]

Mexican American students in Texas often fared no better than their African American counterparts. Ten years after *Delgado v. Bastrop* (and three years after the *Brown* decision), school districts in Texas continued to skirt the judicial mandates of desegregation. Certainly discouraging Mexican youngsters, the Driscoll school district segregated them in the first two grades and then required that they repeat each grade regardless of individual abilities. As a result, Mexican American students, when they entered the third grade, were two years older than their white classmates. Again with LULAC's assistance, parents organized and with Herminia Hernández as the lead plaintiff filed suit. In *Hernández v. Driscoll Consolidated Independent School District* (1957), the federal district judge ruled that Mexican children were placed in segregated classes based on "ancestry" not on language proficiency and thus, the school district was in clear violation of the Fourteenth Amendment.[221]

The defining national moment in the school desegregation movement of the late 1950s was the struggle of the Little Rock Nine to integrate Central High School during the school year of 1957-1958. Once again, as in the Farmville struggle described earlier, black student activism supported and orchestrated by broader black community support sustained a key moment not only in the school desegregation movement, but also the unfolding Black Civil Rights Movement. Minnijean Brown, Elizabeth Eckford, Ernest Green, Thelma Mothershed, Melba Pattillo, Gloria Ray, Terrence Roberts, Jefferson Thomas, and Carlotta Walls endured a living hell in their struggle to integrate the formerly all-white Central High. For better and for worse,
these young warriors underwent a yearlong travail, often punctuated by racist intimidation and violence.[222]

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[219] *Ibid*., 93.

[220] *Ibid.,* 125. Governor Chandler cited on 125.

[221] San Miguel, *Let Them All Take Heed*, 126-29, 133-4; García, *Mexican Americans*, 58, 319; Arnoldo De León, *Mexican Americans in Texas* (Arlington Heights, IL: Harlan Davidson, 1993), 126-7.

[222] Melba Pattillo Beals, *Warriors Don't Cry: A Searing Memoir of the Battle to Integrate Little Rock's Central High*

The extraordinary courage of the Little Rock Nine was the shining moment of the school desegregation movement in Little Rock. Also critical and exemplary was the support of the local black community that stood behind the youth and their efforts. Most important was the local black leadership, particularly that of the NAACP. Daisy Bates, State President of the NAACP and an Editor-in-Chief of the Arkansas *State Press*, and fellow NAACP activist Wiley Branton, the local legal counsel, were fearless in their commitment to the fight for school desegregation in Little Rock. With the invaluable assistance of Thurgood Marshall, Branton coordinated the necessary legal proceedings. Bates was the principal advisor to the students and handled the coordination of the day-to-day issues associated with the struggle, notably public relations.

Publicly arrayed against the school desegregation movement in Little Rock was the white establishment and most of the vocal white Little Rock community. There were isolated white supporters such as Harry Ashmore, editor of the Arkansas *Gazette.* Mostly, however, the racist forces of local Massive Resistance represented the white community. Indeed the campaign to beat back school desegregation in Little Rock in many ways has come to epitomize the widespread and influential series of official and unofficial efforts of the white South to defy *Brown*. The Mother's League of Central High School led by Mrs. Clyde Thomason was instrumental in legal maneuvers to put an end to the gradual integration plan of Little Rock. At one point Governor Faubus brought in the National Guard to stop integration. At another, President Eisenhower sent in federal troops to enforce the law of the land and to protect the process of school integration.

The litigation surrounding the school desegregation battle in Little Rock came to an end with the ruling in *Cooper v. Aaron* (1958). This decision sustained the pro-integration position of the black litigants as consistent with *Brown*, the law of the land. The court insisted further that violence or the threat of violence could not be used as a pretext for refusing to desegregate the schools as mandated by *Brown*. Nevertheless, to compound the tragedy and to ensure his re-election as governor, Faubus closed the Little Rock schools the following school year rather than allow integration.[223]

In Virginia, Massive Resistance in the late 1950s took the extreme step of closing the public schools for a time in some communities, rather than accept school integration.[224] Nowhere was the shame and the tragedy of this racist counterinsurgency more apparent than in Prince Edward County. Here, earlier in the decade, local blacks as discussed previously had been one set of the original plaintiffs in the school desegregation case, *Davis v. County School Board of Prince Edward County,* in what became *Brown*. In 1959, rather than integrate its public schools, Prince Edward County closed them all. A series of private schools were established to educate the county's white schoolchildren. Prince Edward Academy became a prototype of the all-white private schools that emerged in opposition to school integration.

The county ignored the education of its black citizens. Special efforts by local blacks and their supporters allowed many black school children to go elsewhere to be educated. Some did not receive all or part of their formal education during this period. For years, black parents fought through the courts to reopen the schools on an integrated basis. In *Griffin v. County School Board of Prince Edward County* (1964), the Supreme Court finally ordered the county to reopen its schools on an

(New York, Pocket, 1994): Daisy Bates, *The Long Shadow of Little Rock* (New York: David McKay Co., 1962).

[223] *Ibid*.; Wilhoit, *The Politics of Massive Resistance*, 176-82.

[224] Benjamin Muse, *Virginia's Massive Resistance* (Bloomington: Indiana University Press, 1961); Wilhoit, *The Politics of Massive Resistance*, 171-73.

integrated basis and to desist from operating a whites-only private school system.[225]

NAACP lawyers Jack Greenberg, James Nabrit III, and Samuel Tucker provided crucial assistance in this legal struggle. One of the low points of the school desegregation movement thus came to an end and with it, much of the remaining steam behind the opposition forces of Massive Resistance in Virginia and the South. However, organized and unorganized white resistance to school desegregation remained, typically framed in the guise of a most evasive gradualism.

Nowhere was this gradualism more evident than in Richmond, Virginia, where white racial moderates helped to keep the schools open during the height of Massive Resistance fever. From 1956 through 1963, the Richmond public schools operated principally under the state-run Pupil Placement Board whose primary purpose was plainly to arrest school desegregation as much as possible. Variations on such boards sprang up throughout the South. In Richmond, however, Oliver W. Hill led a group of black lawyers, including Samuel Tucker and Henry Marsh, who worked closely with the black community's school desegregation movement. Together the lawyers and the black community kept the legal heat on the local school board to speed the rate of school integration. Increasingly this was a pattern throughout southern black communities, especially in urban areas.

As historian Robert A. Pratt has observed of the Virginia Pupil Placement Board: "In theory, the board was authorized to perpetuate segregation by assigning pupils to specific schools for any of a variety of reasons except for race or color. In actuality, race was the sole criterion considered; the Pupil Placement Board assigned very few black students to white schools in Virginia while it remained in operation."[226] Consistent with the trend throughout the South, in the mid-1960s the Richmond school board shifted to a more locally-directed and an ostensibly fairer "freedom of choice" plan. It soon proved to be, as Pratt so aptly called it, "a myth in operation."[227]

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[225] Robert Collins Smith, *They Closed Their Schools: Prince Edward County, Virginia, 1951-1964* (Chapel Hill: University of North Carolina Press, 1965); Robert A. Pratt, *The Color of Their Skin: Education and Race in Richmond Virginia 1954-89* (Charlottesville: University Press of Virginia, 1992), 11-12.

[226] Pratt, *The Color of Their Skin,* 21-39, 21-2.

[227] *Ibid*., 40-55.

On May 16, 1960 when US District Judge J. Skelly Wright ordered the schools of New Orleans to integrate according to a plan of his own design, he precipitated the "New Orleans Schools Crisis."[228] This was a series of complicated battles between segregationists and integrationists for control over the direction of the city's public and parochial schools. Among other things, it featured the leadership of NAACP stalwarts: postal worker, Arthur Chapital and the legendary civil rights lawyer, A. P. Tureaud, whose activism stretched back to the 1920s. The Massive Resistors included Governor Jimmie "You Are My Sunshine" Davis and, State Education Superintendent, Shelby Jackson.

After a power struggle between the courts and the state government officials, which the courts eventually won, a very limited integration plan went into effect. A boycott of white students at two elementary schools resulted. Soon the demagogues spurred on a mob action that raged through the New Orleans Civic Center. While events did not quite reach the point where federal troops had to be called in, the Kennedy administration intervened to calm the situation. The entire episode revealed a stunning lack of moderate white leadership among the business elite as well as on the school board. When the smoke cleared, in spite of court-ordered desegregation mandates, the school board dragged its feet and school integration in New Orleans proceeded at a snail's pace.[229]

The poignant story of little Ruby Bridges has come to personify the struggle to desegregate the New Orleans schools. In an experience historian Adam Fairclough has described as "bizarre and hellish," Ruby and three other six-year old little girls endured vicious racist taunts from white mobs as they integrated the William Frantz Elementary School and McDonogh 19 School. While the other black girls were together at McDonogh 19, Ruby endured being alone in Frantz and being taught by her own teacher. A then young Air Force psychiatrist Robert Coles, now a famous Harvard Professor who has subsequently made a career of studying children, counseled Ruby and her family. Ruby's walk to school accompanied by federal troops has been immortalized in Norman Rockwell's famous 1964 painting "The Problem We All Live With." While stoic on the outside, Ruby suffered yet persevered, all in the cause of school desegregation.[230]

DESEGREGATING SOUTHERN COLLEGES AND UNIVERSITIES

As with the elementary and secondary school levels, desegregation of all-white public colleges, universities, graduate and professional programs in the South proceeded slowly, at times painfully, at times even violently. The Supreme Court rulings in *Sweatt v. Painter* (1950) and *McLaurin v. Oklahoma State Regents for Higher Education* (1950) had paved the way. Still, until the late 1960s and the 1970s, in the wake of the pressure of the Black Power insurgency and federal government pressure, there was no significant outreach to black students on the part of all-white public institutions. Those blacks in this period who chose to expend the often extraordinary effort necessary to attend programs in all-white schools were clearly very few and far between. Virtually all black students during this time continued to attend Historically Black Colleges and Universities. In fact, the desegregation mandate changed very little at all-black as well as all-white public colleges and universities in this period. The dual systems of higher education common at this time throughout the South persisted.

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[228] Adam Fairclough, *Race and Democracy: The Civil Rights Struggle in Louisiana , 1915-1972* (Athens: University of Georgia Press, 1995), 234-64; Wilhoit, *The Politics of Massive Resistance*, 183-91.

[229] *Ibid*.

[230] Fairclough, *Race and Democracy*, 248-49.

Nonetheless, the early 1960s witnessed four crucial desegregation confrontations at all-white public universities in the South. These moments captured the public imagination and showed that the school desegregation movement had indeed moved into the Old South. Fierce resistance notwithstanding, the integration of these and many other all-white public institutions of higher learning was a significant element in the gathering momentum of the modern Civil Rights Movement. Progress in the integration at this level at this point was often painfully slow and hotly contested, mirroring the progress in the school desegregation movement at the elementary and secondary levels. Nonetheless, the pattern of a gradual momentum building toward greater integration soon became more apparent even at the post-secondary level.

At the time of the Montgomery Bus Boycott (1955-56), national attention was also riveted on the University of Alabama at Tuscaloosa. There, Autherine Lucy sought to integrate the University of Alabama. Her good friend, Pollie Anne Myers, had pushed the idea of going to the state's flagship institution of higher learning. Neither she nor Lucy had any idea of the enormous controversy, which would ensue. Emory Jackson, editor of the black *Birmingham World*, local NAACP chapter secretary Ruby Hurley, and local lawyer Arthur Shores supported by NAACP LDF lawyer Constance Baker Motley made up a formidable support team. In spite of winning the legal right to attend the university, the white opposition was so extreme that it made Lucy's life a nightmare. Indeed as historian E. Culpepper Clark has written:

> Driven from campus after three days of tumultuous demonstrations, Autherine Lucy's name enlisted worldwide sympathy for a civil rights cause yet to be called a movement. At the same time, her suspension and later expulsion gave heart to the massive resistance movement and led in a direct line to the crisis at Little Rock a year and a half later. The University of Alabama now had the dubious distinction of being the first educational institution ordered to desegregate under the *Brown v. Board of Education* implementation decree and the first where a court order was effectively flouted by a determined show of massive resistance.[231]

A short time later, Hamilton E. Holmes and Charlayne Hunter had distinguished themselves as honor graduates at their all-black high schools in Georgia.[232] Their applications for admission to the all-white University of Georgia in 1959 had been stalled by officials for a year. After interviews with both candidates, admissions officials rejected the applicants for allegedly technical rather than racial reasons. Governor Ernest Vandiver gave comfort to the Massive Resistors with his vigorous opposition to the admission of the black students to the flagship institution of higher learning at Athens, Georgia. On January 6, 1961 time ran out for the

[231] E. Culpepper Clark, *The Schoolhouse Door: Segregation's Last Stand at the University of Alabama* (New York: Oxford University Press, 1993), xvii, ix-111.

[232] In fact, the vast majority of those black pioneers at all-white public institutions in the South were academically accomplished. Many like Charlayne Hunter-Gault have gone on to distinguished careers.

university when District Judge William A. Bootle ruled that Hunter and Holmes be admitted forthwith for the winter quarter starting January 9, 1961.

A riot two days later in part sparked by Klansmen, members of the white supremacist organization Ku Klux Klan, spread over the campus and led to the suspension of Holmes and Hunter. Once order had been restored by a small contingent of state troopers eventually dispatched by Governor Vandiver, he attempted to use a new law outlawing state moneys for integrated colleges as a pretext to put an end to the integration move. Judge Bootle quickly ruled the law illegal and demanded the immediate re-admission of Hunter and Holmes to the university. While conditions remained tense for some time, the public crisis was over.[233]

James Meredith's integration of the University of Mississippi in 1962 sparked an even greater uproar and soon became a defining moment in not only the school desegregation movement, but also the Civil Rights Movement. Ironically, as a loner, Meredith saw himself as acting on his own, and not as part of the strategy of local movement activists. Still, his actions led to a series of tragic events, which soon transfixed the world, and placed the Mississippi movements for school integration as well as civil rights squarely in the public imagination. Meredith applied to Old Miss in early 1962. NAACP lawyers Constance Baker Motley and Derrick Bell outmaneuvered the efforts of Mississippi officials seeking to deny Meredith admission.

When on September 13 the Fifth Circuit Court of Appeals ruled against all of the delaying tactics and obfuscation of state officials, including Governor Ross Barnett, a die-hard segregationist, Barnett went on the offensive. Throwing down the gauntlet of interposition, or the discredited or overturned doctrine that a state could invalidate a federal law it believed illegal, Barnett thundered: "no school will be integrated in Mississippi while I am your governor." Also demanding the resignation of any state official who went against him in this growing crisis, Barnett shouted: "We will not drink from the cup of genocide."[234] The rare white Mississippi voice of calm and reason, such as that of the recently defeated Delta congressman Frank Smith, could not be heard at all above the din of the inflammatory rhetoric of the Massive Resistors like Barnett.

After the racist rage of the anti-segregationists with their rebel yells and Confederate flags had been whipped into a rage at a Saturday football game, the poisoned atmosphere was set to explode. The very next day, Sunday, September 14, 1962, the Old Miss Riot broke loose. In spite of a secret agreement between Governor Barnett and the Kennedy administration that the governor would keep a lid on the situation, he plainly had no intention of doing so. The presence of federal marshals sent in to protect Meredith and to keep the peace only backfired. By 7:30 P.M. a crowd of several thousand "was throwing bricks, bottles, and Molotov cocktails at the marshals and setting fire to vehicles thought to be federal property." By dawn the next morning when a late-arriving reinforcement of federal troops had restored order, "the Ole Miss campus had the appearance of a war zone."

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[233] Charlayne Hunter-Gault, *In My Place* (Farrar Straus Giroux, 1992); Wilhoit, *The Politics of Massive Resistance*, 191-2.

[234] Governor Ross Barnett cited in Dittmer, *Local People*, 139.

The tragedy was indeed sobering. This most unfortunate episode "became page-one news throughout the world. Before the nightmare had ended two men lay dead, a French reporter and an Oxford bystander. One hundred and sixty marshals were injured, twenty-eight by gunfire." The last of the federal troops remained until July 1963. The awesome ugliness of Massive Resistance to school integration had been fully exposed.[235] Not to be forgotten, however, integration had come to Old Miss.

The integration of Old Miss had unfortunately exacted a human toll and produced a significant riot. In contrast, with little actual mayhem and no loss of life the integration of the University of Alabama on June 11, 1963 made for an almost equally dramatic moment in the interrelated school desegregation and civil rights struggles. The grandstanding opposition of arch-segregationist Alabama Governor George Wallace notwithstanding, the process of integration in Tuscaloosa proceeded smoothly in comparison to that at either the University of Georgia or the University of Mississippi. Wallace bellowed inflammatory Massive Resistance rhetoric and initially stood in the door of Foster Auditorium to prevent the black students from entering.[236]

Still, the powerful presence of federal troops and Deputy Attorney General Nicholas Katzenbach and the watchful eyes of the Kennedy brothers themselves made it clear that there would be no repeat of the Old Miss Riot. From the Kennedy administration's point of view, the time had come to give greater weight to the problems of school integration. From the point of view of the school desegregation movement, with growing federal support and declining Massive Resistance in the South, the time had come to redouble the efforts to realize the promise of *Brown* for public school education at all levels.

THE PROSPECTS, PERILS, AND RESULTS OF SCHOOL DESEGREGATION, 1964-1968

Within this section's second subperiod from 1956 to 1968, the years from 1964 through 1968 witnessed several key developments in the school desegregation movement. The passage of the Civil Rights Act of 1964 laid the groundwork for greater federal enforcement of school desegregation via Title VI. This law forbade racial discrimination in any program receiving federal funds. With Title VI, the executive and congressional branches of the federal government, led by Presidents John F. Kennedy and Lyndon Johnson, signaled a more pro-active response to the imperatives of the growing Black Civil Rights insurgency generally, especially the Birmingham Campaign, and the school desegregation movement specifically. In effect, this key development helped to initiate a period of increasing and more effective federal oversight of the process of school desegregation nationally.

The first set of official guidelines detailing desegregation standards were written by the United States Office of Education of the Department of Health, Education, and Welfare (HEW) in April 1965. Refined over time, these guidelines demanded that those southern districts not under a court-ordered desegregation plan had to submit a voluntary desegregation plan. This voluntary plan had to satisfy conditions that went beyond the rhetorically race-neutral yet fundamentally race-based pupil assignment plans popular at the time throughout the South. In other words, the new plans had to be race neutral in impact as well as design. The emphasis in the voluntary compliance plan was to be on practical results as well as the plan's design. The actual numbers of black and white students and faculty in integrated schools, or norms of racial balance, became increasingly important.[237]

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[235] *Ibid*., 138-42; Wilhoit, *The Politics of Massive Resistance*, 192-96.

[236] Clark, *The Schoolhouse Door*, 111-260; Dan T. Carter, *The Politics of Rage: George Wallace, The Origins of the New Conservatism, and the Transformation of American Politics* (New York: Simon & Schuster, 1995), 133-55.

[237] Davison M. Douglas, *Reading, Writing, and Race: The Desegregation of the Charlotte Schools* (Chapel Hill:

The 1966 Office of Education desegregation guidelines provided specific numerical ranges of students attending integrated schools as a way to measure progress and assess what further needed to be done to create a unitary or integrated school system. If, for instance, a school district had 9 percent black students attending desegregated schools in 1965-66, by the following school year, 1966-67, that district had to have twice that many, or 18 percent, in desegregated schools. Similarly, if the district had only 5 percent black students in integrated schools that first year, by the second it had to triple the number, or have 15 percent, in desegregated schools. Voluntary desegregation plans not meeting these kinds of goals had to be explained and revised quickly or the negligent district risked losing federal funding.

These goals proved very important, as legal historian Davison Douglas maintains, because these were the first federal government attempts to create quantifiable means of assessing school desegregation progress. These goals also further eroded the declining viability of freedom-of-choice plans. The ineffectiveness of such plans had been plainly exposed for all to see. In addition, these guidelines offered courts relatively objective criteria to use as part of their evaluation of a district's progress. Consequently, that data could be factored into the court's ruling as to how a district might more effectively integrate its schools.[238]

Another key factor in the federal government's move toward giving greater attention to school desegregation, as well as education generally, was the passage of the Elementary and Secondary Education Act of 1965 (ESEA). This law strengthened the federal commitment to an area of education previously principally under state control by providing moneys to promote educational equity. There were five aspects of the measure, providing aid for purposes such as improving the education of poor children, and improving state boards of education.

As a result, through control over the dispensation of these and other federal moneys for elementary and secondary school education, the federal government gained an upper hand in its battle to enforce school desegregation. The threat of withholding moneys to school districts which persisted in operating dual educational systems proved a powerful incentive to in fact integrate these systems. The gradual and steady initial growth in the percentages of black students attending integrated schools in this period can be attributed in part to this federal carrot and stick as well as the increasingly clear-cut Office of Education desegregation guidelines. Only 2.3 percent of black students attended integrated schools in 1964; that number grew to 7.5

University of North Carolina Press, 1995), 113; Pratt, *The Color of Their Skin*, 37-8.

[238] Douglas, *Reading, Writing, and Race*, 125.

in 1965, 12.5 in 1966.[239] The 1966 guidelines, as mentioned earlier, prompted further improvement in the desegregation figures.

The threat of denial of funds under Title VI was not an unqualified success, however. This was especially the case in the North and elsewhere where entrenched patterns of de facto segregation, white racism, and political factors sustained patterns of residential and school segregation even in the face of threatened withholding of federal funds. In 1965 the Chicago schools were found to be in serious violation of *Brown* and for five days the Office of Education cut off funds to the school district. Unfortunately for the future use of the refusal of federal funds, however, Chicago officials were able to get the cut-off reversed.[240]

As Gary Orfield observed: "Failure in Chicago foreclosed the possibility of using Title VI as a tool against de facto segregation permitted by Federal courts and very seriously limited the Office of Education willingness to investigate even charges of *intentional official* (emphasis added) segregation in the North." After this fiasco, attention focused on the far more difficult issue of intentional segregation, largely in the South. The lesson of the moment was obviously not lost on the South, however. "The Chicago incident was universally seen in the South" Orfield noted, "as a political test of strength and proof that civil rights enforcement could be beaten politically."[241]

In a series of important decisions issued from the United States Court of Appeals for the Fifth District, Judge John Minor Wisdom supported the thrust of the school desegregation movement's growing emphasis on a results orientation in assessing progress toward school desegregation. Public school districts, Judge Wisdom argued, had a duty to increase the numbers of students in integrated schools. As a result, in *Singleton v. Jackson Municipal Separate School District* (1965), he affirmed that the provision of an integrated school system was not only the district's duty. He also affirmed the standards outlined by the Office of Education. Looking at seven rural school systems in Louisiana and Alabama, in *United States v. Jefferson County Board of Education* (1966) Judge Wisdom upheld those guidelines as constitutional.[242]

In mid-1966 the Office of Education issued the study *Equality of Educational Opportunity.* More commonly called the Coleman Report after the chief researcher on the project James S. Coleman, researchers sought to determine the role of various school and home factors, including school desegregation, on student achievement. One finding proved shocking and controversial. Evidence cited showed no serious differences in resources and facilities between white and black schools. In addition, the report found no discernible relationship between student achievement, on one hand, and school resources and facilities, on the other. Evidence showed that inequalities

[239] Kluger, *Simple Justice*, 759-60; Douglas, *Reading. Writing, and Race*, 113; Thomas K. Minter and Alfred E. Prettyman, "Education," in Jack Salzman, John David Smith, and Cornel West, eds., *Encyclopedia of African-American History and Culture*, vol. 2 (New York: Macmillan, 1996), 860-61.

[240] Gary Orfield, *The Reconstruction of Southern Education: The Schools and the 1964 Civil Rights Act* (New York:Wiley-Interscience, 1969), 151-207,

[241] *Ibid*., 153, 206.

[242] Douglas, *Reading, Writing, and Race*, 126.

were not based on school resources, but were a function of the home environment, neighborhoods, and peers; and that blacks achieved more in desegregated schools.[243]

Not surprisingly, the Coleman Report documented the enduring realities of separate and unequal education in American public schools for minority and white children. Integration was even more minimal among faculties than among student bodies. Almost always wherever there was integration, it represented black children attending formerly all-white schools and a few white teachers teaching black students, rather than the reverse. The report also recorded poorer rates of achievement on basic skills test — reading, writing, math, problem solving — among minority students, notably black students. In addition, the report stressed that the racial disparity in performance rates between blacks and whites on these measures only increased over the years. The findings and their implications, specifically and the report, more generally, sparked further research as well as extensive debate.[244]

A subsequent 1967 report, *Racial Isolation in the Public Schools*, issued by the United States Commission on Civil Rights showed that residential segregation played a key role in sustaining dual educational systems. Indeed, as historian Thomas Sugrue has shown in a recent work, from the 1940s on, racially discriminatory Federal policies and actions regarding home loans and mortgage insurance supported patterns of housing segregation in Detroit and the rest of the nation.[245] In other words, federal policies and actions reinforced private and local patterns of anti-black housing discrimination throughout the country.

The 1967 study noted that "The programs of the Federal Housing Administration (FHA) and Veterans' Administration (VA) have been key factors in the rapid growth of middle-class, white suburban communities.... The practices of these two agencies paralleled and supported the discriminatory practices of private industry." In fact, nondiscrimination only became the official policy of the FHA and the VA in 1962. Nonetheless, powerful evidence of persistent patterns of discrimination within these agencies was common throughout the country long after 1962.[246] Not surprisingly, therefore, without strategies to get around the deeply entrenched dilemma of residential segregation, the strategy of school redistricting in and of itself could create unitary systems, the 1967 report suggested. It was clear that any set of effective remedies had to include an emphasis on neighborhood integration through more effective open housing efforts.

The 1967 report likewise corroborated the unequal levels of mastery of basic skills between white and minority children. Furthermore, the report produced evidence to argue that black children performed better in integrated schools. The report concluded that one approach to creating a unitary district would be the creation of magnet schools with enriched curricula and first-rate faculties and facilities. Over time, variations on the theme of magnet schools have become a key component of the school desegregation plans of many school districts.[247]

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[243] James S. Coleman, *et.al*., *Equality of Educational Opportunity* (Washington, DC: U.S. Government Printing Office, 1966); Jeffrey A. Raffel, *Historical Dictionary of School Segregation and Desegregation: The American Experience* (Westport, CT: Greenwood Press, 1998), 58-9.

[244] Ibid.

[245] U.S. Commission on Civil Rights, *Racial Isolation in the Public Schools*, vol.1 (Washington, DC: U.S. Government Printing Office, 1967); Thomas R. Sugrue, *The Origins of the Urban Crisis: Race and Inequality in Postwar Detroit* (Princeton: Princeton University Press, 1996).

[246] *Racial Isolation in the Public Schools*, 22.

[247] *Ibid*., 165-66.

The next key move in the growth of greater federal support for equal educational opportunity came in 1968 from the Supreme Court in its ruling *Green v. County Board of Regents of New Kent County.* This small, rural, majority-black county in eastern Virginia had only two schools: the all-black George W. Watkins and the all-white New Kent. While freedom-of-choice had worked out as well as might be expected in such a small and dispersed system, a dual system clearly continued to thrive. The NAACP LDF had pushed this and similar cases in an effort to get the Supreme Court to provide both a stronger remedy and more stringent guidelines for school integration throughout the South.

The court heard oral arguments in the case on April 5, 1968, the day after the assassination of Martin Luther King, Jr. In its ruling a month later, the court handed down its most important decision regarding school desegregation since *Brown*. Rather than continue to work within the ambiguous enforcement paradigm of "all deliberate speed" articulated in *Brown II*, here the court argued forcefully for school integration remedies that worked now. Dual systems had to be replaced "root and branch" with unitary systems, or integrated ones, now. The controlling issue became immediate integration meeting enforceable standards of racial balance. The new directive caused a key shift: to ensure racial balance, race conscious norm had to be devised and monitored. As Raffel noted, the court's unanimous decision was

> …the major turning point or watershed in school desegregation plans, since the objective of the remedy changed from eliminating race-based pupil assignments to creating schools that were to the maximum feasible extent racially balanced, and the subject of public argument changed from debate over the principle of school desegregation to the means.[248]

The results were startling. In 1968-69, 32 per cent of black students in the South attended integrated schools; in 1970-71, the number was 79 per cent.[249]

The fiction of freedom-of-choice came under particularly harsh court scrutiny as failing to meet the vastly strengthened norms of desegregation. Particularly unfair was the burden the freedom-of-choice formats placed on black students and, especially, their parents. For instance, black parents in particular were typically primarily responsible for initiating the school integration process through a formal application procedure and, if successful, seeing it through logistically by providing transportation, and the like. The black students, of course, then entered the minefield of unwelcoming, formerly all-white schools.

The ongoing school desegregation movement now driven by the imperatives of *Green* transformed the face of southern public school education. The criteria for determining whether integration within a specific school site as well as the school system more broadly satisfied federal guidelines have come to be known as *Green* factors, those elements which constitute an acceptable school desegregation plan. These include not just student body composition (the numbers and percentages of racial groups), but these factors also encompass "every facet of school operations—faculty, staff, transportation, extracurricular activities and facilities."[250]

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[248] Raffel, *Historical Dictionary of School Segregation and Desegregation*, 113

[249] Pratt, *The Color of Their Skin*, 40-55; Minter and Prettyman, "Education," 861.

[250] Raffel, *Historical Dictionary of School Segregation and Desegregation*. Justice William Brennan's words are cited on 113.

In response to black pressure and the pressure of federal directives, a measure of school desegregation finally came to the South. It must be reiterated that these changes demanded innumerable and extraordinary struggles on the part of black parents, students, white allies, and the various other advocates of desegregation. The litigation and advocacy work of the NAACP LDF in connection with the growing cadre of local black civil rights lawyers was essential.

Also critical were the efforts of lower courts, the Supreme Court, and eventually the congressional and the executive branches of the federal government. The role of the District Courts found in each state and Puerto Rico, and the intermediate Court of Appeals, the next level of adjudication respectively before the Supreme Court, merits notice. Both played crucial roles in the implementation of *Brown*. Closer to the local desegregation struggles, the District Courts, and especially the judges who constituted them, crafted the specific plan or remedy to be implemented. Until adequate federal pressure forced them to do otherwise, too often these plans were evasive at best. The Courts of Appeals were likewise very active in school desegregation decisions, and their work varied in terms of its substantive support for desegregation. The Atlanta based Fifth Circuit Court, was after the Supreme Court itself, the most effective court in positively sustaining the mandate of *Brown*.[251]

In addition, the tidal wave of the rapidly expanding Black Freedom Insurgency, in concert with the social movements of communities of color, propelled integration generally, and school desegregation, specifically. Local schools desegregated, often compelled to do so by the courts and a federal government forced into action by the power and logic of these ongoing social movements. In the 1968 study *Our Children's Burden: Studies of Desegregation in Nine American Communities*, Raymond Mack and his contributors offered an illuminating survey of the state of school desegregation nationally. The authors of those nine case studies ranging across a wide national cross-section concluded:

1. Small-towns and medium-sized cities, North and South, are desegregating their schools, at least to a token extent.

2. Huge metropolitan areas, North and South, are resegregating their schools; the trend is toward more rather than less segregated educational facilities.

3. Negro parents have defined equal-educational opportunity as the route to the achievement of a better life for their children; Negroes equate desegregated education with improved education, and see both as providing access to the American dream of economic prosperity coupled with respect for one's personal worth.

4. Social organization is a critical variable for understanding the amount of desegregation in a community; protest pays.

5. Americans are asking their children to bear the brunt of the difficult social process of desegregation.[252]

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[251] *Ibid*., 69-71, 85-6; Jack Bass, *Unlikely Heroes: The Dramatic Story of the Southern Judges of the Fifth Circuit* (New York: Simon and Schuster, 1981); C.K. Rowland and Robert A. Carp, *Politics and Judgment in Federal District Courts* (Lawrence: University Press of Kansas, 1996); Gary Orfield, *The Reconstruction of Southern Education;* Philip J. Cooper, *Hard Judicial Choices: Federal District Court Judges and State and Local Officials* (New York, Oxford University Press, 1988).

[252] Raymond Mack, ed., *Our Children's Burden: Studies of Desegregation in Nine American Communities* (New York,: Random House, 1968), xii-xiii.

It bears noting that the resegregation of schools in large northern and southern metropolitan systems occurred largely through white flight to the suburbs or to private schools. In many ways, for Mack and his contributors, having described the difficult and multi-faceted process of desegregation, *Our Children's Burden* raised as many troubling questions for the United States as it professed to answer.

SWANN, BUSING AND THE CONTINUING DILEMMA OF SCHOOL DESEGREGATION, 1968-1974

Up through 1968, the process of school desegregation, especially in the South, had neither been easy nor had it been inevitable. Nowhere perhaps had the long and difficult road to school desegregation been more winding yet revealing than in Charlotte, North Carolina and Richmond, Virginia. Particularly telling were the different paths of these desegregation stories immediately before and after the *Green* decision. Whereas the Charlotte school desegregation story in the early 1970s ends on a positive and hopeful note, the contemporaneous school desegregation story in Richmond ends on a more distressing and sanguine note.[253]

The Charlotte and Richmond desegregation stories have several significant twists. Unlike New Orleans and other cities where the civic leadership vigorously condemned school integration and undermined its achievement, leadership in Charlotte adopted a far more moderate and conciliatory posture. This moderate posture stalled school desegregation efforts far more effectively in many instances than the more aggressive oppositional tactics of massive resistance. The blatant racism and outright discrimination that upheld a dual system in communities like New Orleans invited far more outside scrutiny than the more cloaked racism and discrimination of systems such as Charlotte and Richmond. As a result, several states with histories of more strident opposition to school integration actually had higher levels of desegregation than states where moderation disguised strong white opposition to integration. Despite the "civility" that characterized race relations in North Carolina's major cities, less than one percent of North Carolina's school children attended integrated schools in 1964. Richmond had both white moderates and a well-organized black community, but the state was the center of massive resistance and Virginia mandated both "pupil placement" and "freedom of choice" laws.

Perhaps the chief difference in how events played themselves out in the two cities was that the Charlotte City Public School system was, after 1960, part of a metropolitan district encompassing surrounding Mecklenburg County while Richmond's schools remained separate from the surrounding suburban county systems. Consequently, while residential segregation in both cities was acute, whites could not as easily flee the joint Charlotte-Mecklenburg urban-suburban school district as Richmond's whites could escape to the suburbs. White flight to private schools and to the surrounding counties eroded a critical basis for a desegregated system in Richmond. The political boundaries of school districts became increasingly important as a factor in desegregation plans. [254]

In Charlotte, like Richmond, there was strong black leadership in the school desegregation movement. Kelly Alexander, president of the state NAACP, attorney Julius Chambers, activist and dentist Reginald Hawkins were all crucial leaders. Charlotte prided itself on having integrated its schools in a token way in 1957. Delores Huntley, Gus Roberts, and Girvaud Roberts were three black student pioneers whose

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[253] Douglas, *Reading, Writing, and Race*; Pratt, *The Color of Their Skin*.

[254] William Chafe, *Civilities and Civil Rights: Greensboro, North Carolina and the Black Struggle for Freedom* (New York: Oxford, 1980); Douglas, *Reading, Writing, and Race*, 41; Frye Gaillard, *The Dream Long Deferred* (Chapel Hill: University of North Carolina Press, 1988).

experiences went relatively smoothly. The hounding and abuse of Dorothy Counts at Harding High, however, paralleled the experiences of the Little Rock Nine. Like her more famous student comrades in the school desegregation movement, her experiences received national and international exposure, replete with gripping photographs of her enduring the hatred of her tormentors.[255]

As in Richmond, there was also significant black opposition to school desegregation among those concerned with the preservation of black institutions, black teaching and principal jobs, and the undue burden desegregation placed on black communities, especially black schoolchildren. In Charlotte, the highly trained and influential minister Nathaniel Tross represented a conservative strand of this kind of leadership.[256] The fundamental key to the school desegregation movement was the willingness of black parents and schoolchildren to put their belief in equal educational opportunity — and far too often the stability of their lives — on the line. Litigants in school desegregation cases faced all kinds of subtle and unsubtle pressures, on the job and in the community. During their stay in Charlotte from 1964 to 1967, Vera and Darius Swann were active in the civil rights movement. Vera helped organize domestic workers; Darius helped put together a voter registration project in eastern North Carolina. Living in India for eleven years gave them a kind of cosmopolitanism, which intensified their commitment to integration.

When the Swanns tried to register their son James at the all-white Seversville Elementary rather than the all-black Biddleville Elementary, they were turned away. When the school board refused to budge and the Swanns refused to request a formal transfer under the Pearsall Plan, a pupil assignment scheme they considered "evil," the die was cast. They filed suit in a case with a winding history. In fact, by the time the resurrected case of *Swann v. Charlotte-Mecklenburg Board of Education* reached the Supreme Court in 1970, the Swanns no longer lived in Charlotte. Nevertheless, the unanimous 1971 Supreme Court ruling in the case proved transformative.

First and most important, the Supreme Court ruling in *Swann* established busing as an acceptable means of working toward school desegregation in a school system where a history of segregated and discriminatory public schools could be shown. Desegregation plans, the court reasoned, "cannot be limited to the walk-in school." Second, the court validated the use of race-based numerical guidelines for what constitutes a racially integrated school as well as school system. In Charlotte, that ratio was a 71-29 white to black figure. Third, the court further elaborated specific elements of a viable and acceptable school desegregation plan, or *Green* factors. "Student assignment plans, existing policies and practices with regard to faculty staff, and transportation, extracurricular activities, and facilities (school construction and abandonment) were cited as important components of such plans; racial distinctions had to be eliminated in all of these areas."[257]

The paradoxical crux of the proposed elimination of these racial distinctions, though, has been that race-conscious measures proved essential to the achievement of that goal. In other words, the racial integration of public schools demanded race-conscious actions. Race-neutral measures had previously proved ineffective. Thus in making school desegregation a primary aim of school districts nationwide, *Swann* supported the policy of taking race into account in making school assignments.

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[255] Douglas, *Reading, Writing, and Race*, 72-4.

[256] *Ibid*., 57-64.

[257] Raffel, *Historical Dictionary of School Segregation and Desegregation*, 249.

The geographic crux of the desegregation dilemma in Charlotte was the city's extreme residential segregation. To resolve this knotty problem, in early 1970 federal district court judge James McMillan ordered and the NAACP and most of the black community supported, a sweeping metropolitan busing experiment which took students across city-county lines to achieve racial balance. The school desegregation movement had reached a strategic and political crossroads. White opposition was strong but not overwhelming. With strong civic, community, and business leadership, over time the plan worked.[258]

In contrast, the anti-busing forces had much more power in Richmond. After a referendum on a merger between the Richmond and county school systems as a way to advance desegregation had been defeated, some form of busing as a tactic to achieve intra-urban desegregation became even more inevitable. As in Charlotte and throughout the South, freedom-of-choice palliatives had proven very ineffective. In April 1971, District Court Judge Robert R. Merhige ordered an extensive pupil and teacher reassignment plan and an equally extensive citywide busing plan to promote school desegregation in *Bradley v. Richmond School Board*. White opposition and white flight to the surrounding counties soon undermined Judge Merhige's plan, even though the Supreme Court eventually judged it constitutional.[259]

As the Charlotte case wound its way to the Supreme Court, the pro-busing forces — led by the NAACP — and the anti-busing forces — notably the Concerned Parents Association — fought a spirited battle. The unanimous Supreme Court ruling in April 1971 proved a milestone in the school desegregation movement. The judgment consisted of four parts. First, the court ruled that racial quotas to achieve racial balance in schools had to be flexible rather than strict. Second, if a school continued to be predominantly of one group, the burden of proof that such a population did not result from past or present discrimination rested on the school district. Third, the decision gave courts considerable latitude in creating school attendance zones. Fourth and finally, the decision balked at excessively long bus rides for schoolchildren.[260]

THE SHIFTING TIDE: WHITHER SCHOOL DESEGREGATION

Growing public tension over court-ordered busing to achieve school integration in concert with a series of pivotal court rulings dominated the first several years of the 1970s, much like the late 1960s. The growing public debate over the aims and viability of court-ordered busing as a strategy to achieve school desegregation increasingly clouded the issue of equality of educational opportunity. In many instances, the controversy even clouded commitment to the very viability of school integration itself. Historically, students have ridden public buses to school, as well as school buses, outside the confines of desegregation. Indeed, throughout much of the twentieth century, especially throughout rural America and the segregated Jim Crow South, busing has been a common mode of transportation to and from school for many students.

The problem, then, was not with busing per se, but with court-ordered busing to achieve integration. Many parents were concerned with their children being taken to non-neighborhood schools, especially at the lower grades. Many parents were particularly concerned with their children attending schools in neighborhoods with a different racial and class profile. Regardless of the motivations and

[258] *Ibid*., 107-29.

[259] Pratt, *The Color of Their Skin*, 41-55.

[260] Douglas, *Reading, Writing, and Race*, 210; Bernard Schwartz, *Swann's Way: The School Busing Case and the Supreme Court* (New York: Oxford, 1986).

rationalizations behind the opposition to court-ordered busing to achieve school integration, that opposition only grew in this period. Correspondingly, that opposition increasingly undermined the viability of court-ordered busing as a tactic to achieve school desegregation.

The Supreme Court ruling in *Swann* actually approved busing, as a desegregation strategy only where there was a history of de jure segregation. In fact, district courts have called for busing typically and only as a narrowly tailored tactic of last resort. Desegregation scholar Jeffrey Raffel writes that after *Swann*, District Courts could call for busing "only under restrictive conditions." There had to be evidence of "a constitutional violation." Busing had to be shown to be a "feasible, reasonable, and workable remedy that will not threaten the educational process or the health of students involved."

Clearly a significant part of the white opposition to court-ordered busing to achieve school integration flowed from racism phrased in thinly coded language like opposition to "forced busing" and "massive busing." But that opposition was not just racism. In addition, as historian Ronald Formisano has argued in *Boston Against Busing*, "Antibusing action and opinion arose rather from the interplay of race and class, in admixture with ethnicity and place, or 'turf.'" A large measure of the minority opposition to busing flowed from the undue burdens generally shouldered in the process by the less privileged. This problem only complicated the rank hostility and indifference their children too often endured at the hands of whites. Nevertheless,

during this period the public continued to profess strong support for integrated schools even while that same public more and more opposed busing as a remedy to achieve that aim.[261]

In Richmond, court-ordered busing became in the words of Pratt, "the eye of the storm." The increasingly controversial use of court-ordered busing accelerated the transition of the Richmond Public Schools to an overwhelmingly black majority district, as whites continued to flee to the surrounding counties. In 1960, the Richmond schools were 45 percent white; in 1975, they were 79 percent black. Pratt ultimately sees the story of school desegregation in Richmond in this period as "A Promise Betrayed."[262]

Charlotte, however, emerged from the intense conflict over its desegregation struggle in this period successfully. Indeed in the minds of many local and outside observers the Charlotte-Mecklenburg paradigm has epitomized a successful school desegregation experience. Stemming white flight and alleviating the tensions around the metropolitan busing scheme, the Charlotte school desegregation story represented a system that made school desegregation work. Fundamental to this success was the high level of interracial goodwill and cooperation throughout all segments of the Charlotte community. The driving engine behind the success has been the uncommon efforts of a well-organized and well-led black community.[263]

Interestingly enough, in the early 1970s the problem of school integration increasingly became a national problem rather than a southern one. Of course, the lack of educational equity for students of color, especially black students, had always been a national as opposed to a regional dilemma. As a result, the issue of school integration increasingly came to be seen as one affecting not just blacks and whites, but all schoolchildren, in particular all schoolchildren of color. As the social movements of peoples of color developed and expanded their agendas in the late 1960s and 1970s, school desegregation often loomed as a key issue in those struggles.

For Mexican Americans, the fight for school desegregation continued into the 1960s and 1970s, but with a new civil rights organization taking the lead. Emerging out of a network of Mexican American attorneys, led by Tejano Pete Tijerina, and with seed money from the Ford Foundation, the Mexican American Legal Defense and Education Fund (MALDEF) was founded in 1968 and, within a few years, earned a national reputation for civil rights litigation. While LULAC and MALDEF shared a common goal of educational equity, their legal strategies differed--reflecting generational changes inside the Mexican American middle class and responding to new tactics employed by recalcitrant school boards. From the 1930s through the 1950s, LULAC billed Mexican Americans as "the other white" group in its bid to desegregate local schools. The Houston, Texas school district then appeared to be integrating when it placed Mexicans and African Americans in the same schools while maintaining exclusively European American facilities. When MALDEF challenged this practice in *Ross v. Eckels* (1970), both the lower and appellate courts ruled in favor of the Houston school district. "Where is the enrichment or the equality of opportunity in a situation which requires consolidating two

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[261] Raffel, *Historical Dictionary of Segregation and Desegregation*, 41-45; Ronald P. Formisano, *Boston Against Busing: Race, Class, and Ethnicity in the 1960s and 1970s* (Chapel Hill: University of North Carolina Press, 1991), xii. For an important critique of busing as a policy to achieve school desegregation, see Raymond Wolters, *The Burden of Brown: Thirty Years of School Desegregation* (Knoxville, TN: University of Tennessee Press, 1948).

[262] Pratt, *The Color of Their Skin*, 81-110, 93.

[263] Douglas, *Reading, Writing, and Race*; Frye, *The Dream Long Deferred*; Schwartz, *Swann's Way*.

disadvantaged groups?" inquired an incredulous Hispanic government official. "To expect that anything resembling education can result. . .is asking too much."[264]

Coinciding with the rise of the Chicano Movement and Cesar Chávez, The United Farm Workers, MALDEF emphasized the history of discrimination as well as the contemporary experiences of Mexican Americans. In its legal strategy, MALDEF sought judicial recognition of Mexican Americans as a distinct minority group covered under the mantle of *Brown*. Aided by MALDEF, a local steelworkers union filed suit against the Corpus Christi school district for segregating the children of its Mexican American members. In *Cisneros v. Corpus Christi Independent School District* (1971), Judge Owen Cox agreed with the plaintiffs and ruled that Mexican American children were "identifiable" minorities entitled to the protection of Brown. The *Ross* and *Cisneros* decisions provided two seemingly contradictory positions and in 1973 the U.S. Supreme Court weighed in on the matter in *Keyes v. School District Number One, Denver, Colorado*. The case concerned the segregation of African American and Mexican American children in Denver. Ordering desegregation plans for both groups, the high court ruled that Mexican Americans (often referred to as Hispanos in Colorado and New Mexico) constituted a recognized minority and that "Negroes and Hispanos in Denver suffer identical treatment when compared with treatment afforded Anglo students." In negotiating desegregation plans, MALDEF also emphasized the importance of bilingual and bicultural education.[265]

This case plainly showed that the school desegregation movement was gathering momentum outside the confines of the South. The Supreme Court ruling in *Keyes* was in fact the first major court ruling on school desegregation in the North and West in an area without a history of de jure segregation and discrimination. The court, nevertheless, had found that patterns of segregation and discrimination, even in the absence of statutes underlining those invidious effects, were important evidence of segregation that had to be addressed. This was especially the case where there were suspect district policies such as gerrymandered attendance zones and new schools built in racially isolated areas. The court reasoned that any salient evidence of intentional segregation called into question the district's desegregation initiatives. In essence, the court upheld the right of Latinos as well as African Americans to equal educational opportunity in a desegregated environment.[266]

During the late 1960s, the NAACP turned considerable attention to the myriad of obstacles encountered by American Indian children who attended public schools, obstacles ranging from personal harassment, to teacher indifference, and dilapidated buildings. "By every standard, Indians receive the worst education of any children in the country," proclaimed the NAACP report "An Even Chance." This 1971 report also recorded parental feelings of powerlessness. "We are afraid to express ourselves before white educators," stated one Montana parent. Another from South Dakota remarked, "If we speak up, we are called militant Indians."[267] Incorporating pithy vignettes and interviews taken from various western locales, NAACP staff unfolded the layers of antipathy on the part of some educators, school administrators, and local townspeople toward

[264] San Miguel, *Let Them All Take Heed*, 169-79; De León, *Mexican Americans in Texas,* 126-7. Quotes are from San Miguel, *Let Them All Take Heed*, 177, 179 respectively.

[265] San Miguel, *Let Them All Take Heed*, 171, 178-185; Acuña, *Occupied America*, 290. Quote is from Acuña, *Occupied America*.

[266] Orfield et. *al., Dismantling Desegregation,* xxii.

[267] NAACP Legal Defense and Educational Fund, "An Even Chance," (1971), 2-3, 41-57. Gracias a Susan Salvatore for providing this citation. Quotes are from 2, 43, and 46 respectively. Note: this study was conducted with the cooperation of The Center for Law and Education, Harvard University.

American Indians, including the incredulous comment, "Why don't you go back where you came from?" "An Even Chance" concluded that self-determination in Indian education offered a realistic path for educational empowerment.[268]

The year before the *Keyes* decision in 1972, the Indian Education Act recognized the importance of self-determination by setting "a precedent for Indian control." The bill provided for "parental and community participation in the establishment and direction of impact-aid programs" and "authorized a series of grant programs to stress culturally relevant and bilingual curriculum materials." Adult education and teacher training also figured prominently in this significant piece of legislation. Historian Margaret Connell Szaz contends that ". . .the web of government controls has been loosened. Henceforth, direction and leadership in Indian education should come increasingly from Indians themselves." It is vital to underscore the fact that such legislation did not appear overnight, but reflected over two decades of discussion, agitation as well as subtle changes.[269]

Despite popular images of Alaska Natives as a monolithic community who reside in igloos, Alaska is home to over twenty national groups from the Aleuts to the Yupik. In fact they are among over 400 American Indian nations in the United States. During the first half of the twentieth century, access to public education for Alaska Natives depended partially on blood quantum. An Act of Congress in 1900 permitted incorporated communities to elect and run their own school boards for non-Natives. In 1904, U.S. Senator Nelson from Minnesota secured passage of the Nelson School Law that implemented public education in rural Alaska for "white children and children of mixed blood who lead a civilized life." As a result, "a dual system of education" developed, one for white and mixed-blood youth and one for Alaska Natives, a system that remained in place until after statehood. Alaska Native education remained poorly funded and available only in selected areas. As evidence of neglect, Alaska did not contract for Johnson O'Malley funds (JO'M) until 1952. JO'M monies represented federal resources allocated to states or territories for state-run public education of indigenous peoples, funding that had been in place since 1934. A 1962 general Memorandum of Understanding placed the federal BIA schools in Alaska under state jurisdiction. Many factors have contributed to problems of equal access including, in part, the challenges of geography and climate. In 1972, the U.S. Supreme Court heard the case of *Hootch v. Alaska*, a suit filed by Alaska Native students who desired more high schools in rural communities. Indeed, at the time, 108 communities in the state were without high school. The Court, however, while acknowledging the fundamental right

[268] *Ibid*., 41-57. Quote is on 43.

[269] Szaz, *Education and the American Indian*, 30-2, 60, 165-66, 198-201, 209. With the New Deal, gradual closure (and later in some cases, transformation under Indian control) of federal boarding schools began to occur, representing a first step in local sovereignty.

of public education, ruled that this right did not extend to establishing a high school "in every village."[270]

Access to education is only one segment of the equation, the nature and quality of instruction remains a paramount concern for Alaska Natives. Among American Indian peoples generally, the push for self-determination has characterized Indian education over the past fifty years. The question for Indian peoples is less about integration than about tribal sovereignty and local control. An integral part of self-determination involved bilingual and bicultural curriculum. Like their Mexican American, African American, and Asian American counterparts, American Indian activists have emphasized the importance of culturally relevant instruction in the classroom.[271] As Alaska Native Yupiktak Bista eloquently argued:

> Today we have entrusted the minds of our young to professional teachers who seemingly know all there is to know. They are teaching a child how to read, write, repair a car, weld two pipes together. But they are not teaching the child the most important thing. Who he is: an Eskimo or Indian with a history full of folklore, music, great men, medicine, a philosophy complete with poets; in short, there was a civilization, a culture which survived the harshest of environments for thousands of years. . .It is not our intent to wage war on Western civilization. We merely want to come to terms with it on our own grounds.[272]

A significant milestone within the legacy of Asian American activism is *Lau v. Nichols* (1974), a unanimous U.S. Supreme Court ruling that established the judicial mandate for bilingual education. The suit, brought by monolingual Chinese students in San Francisco, charged that the local school board in not offering "adequate English instruction" had failed "to provide equal educational opportunities for all students." The Court agreed and according to scholar Charles Wollenberg: "Asian and Chicano activists looked to the 1974 Supreme Court decision in *Lau v. Nichols*, requiring that non-English speaking children be given special language instruction, as a

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[270] Alaska, Department of Education, *North to the Future*, by William R. Marsh, (Juneau: State of Alaska, 1967), 21, 61, 83; Ray, *A Program of Education for Alaska Natives*, 52-4, 32, 41-2; Szaz, *Education and the American Indian*, 91-2, 104; D.M. Murphy, "Rural Secondary Education: Some Alternative considerations," in *Cross-Cultural Issues in Alaskan Education*, ed. Ray Barnhart (Fairbanks: Center for Northern Educational; Research, University of Alaska-Fairbanks, 1977), 7-19; David H. Getches, "Law and Alaska Native Education: The Influence of Federal and State Legislation upon Education of Rural Alaska Natives" (Fairbanks: Center for Northern Educational Research, University of Alaska-Fairbanks, 1977), 4, 23-26. Quotes are from *North to the Future*, 21; Ray, *A Program of Education*, 32; and, Getches, "Law and Alaska Native Education," 23, respectively. As part of the settlement related to *Hootch*, the Alaska state government pledged "at least 20 million" schools in rural areas. Furthermore, in 1976, new state regulations ordered the creation of high schools "wherever there is an elementary school and any available high school students." [Getches, "Law and Alaska Native Education, 25-26.]

[271] For an excellent overview on American Indian struggles for self-determination, see Peter Iverson, *We Are Still Here: American Indians in the Twentieth Century* (Arlington, IL: Harlan Davidson, 1998). The most comprehensive treatment of federal Indian education policy is Szaz, *Education and the American Indian*.

[272] Yupitak Bista, "Education and the Subsistence Way of Life," in *Cross-Cultural Issues in Alaskan Education*, ed. Barhardt, 70.

legal lever to force school districts to adopt "community-oriented, bilingual and bi-cultural programs."[273]

During the 1960s, Asian American youth had participated in the antiwar movement and the African American civil rights movement. Coming to terms with problems inside their own communities, they brought their organizing experiences and skills to bear on Asian American issues. By 1969 Asian American students had created their own groups and worked within multiracial coalitions, such as during the Third World Strikes at Berkeley and San Francisco State. By the 1980s, Asian American Studies program could be found on college campuses across the country.

Like other student activists of color, Asian Americans forged bonds of community with one another as they embraced messages of social justice. For instance, they drew attention to and sought remedies for the "glittering ghettoes," the Chinatowns of San Francisco and New York City. Mason Wong of the Intercollegiate Chinese for Social Action explained, ". . .the Chinese community has the same basic problems as all other nonwhite communities. The only thing different is that it has neon lights and a few tourist restaurants."[274] In assessing the impact of this activist generation, historian Sucheng Chan contended: "[They] accomplished a great deal. They showed other Asian Americans the efficacy of political action. . .Many of the community social service agencies they established, such as local health clinics staffed with bilingual professionals and organizations of law students and young lawyers providing free or low-cost legal services, have endured."[275]

College- and university-based Asian American or Asian Pacific Studies programs reflect and thus must address a "multiplicity" of national origin groups as they foster a pan-Asian identity. The same point must be made of educational institutions and programs which embrace Asian American populations and treat Asian American scholarly and academic concerns. In 1990 over 7 million people of Asian birth or descent lived in the United States with 23% Chinese, 11% Filipino, and 12% Japanese. Furthermore, there are significant percentages of East Indian, Korean, and Vietnamese Americans along with smaller numbers of Laotians, Cambodians, Thai, and Hmong. As in African American, Chicano/Latino, and American Indian Studies, questions of history, identity, and memory loom large. In the words of distinguished historian Ronald Takaki: ". . .young Asian Americans want to listen to these stories to shatter images of themselves and their ancestors as 'strangers' and to understand who they are as Asian Americans."[276]

Concurrently in Boston, a 'cradle of American democracy and civility,' racial politics interacted with identity politics rooted in 'white and black' communities leading to a furious battle over k-12 school desegregation. This highly publicized struggle graphically illustrated that the intensity of white opposition to school desegregation was truly a national rather than a regional problem. In 1974, US District Court Judge W. Arthur Garrity, Jr. ruled in *Morgan v. Hennigan* that the Boston School Committee was operating an unconstitutional dual school system. When the school board refused to submit a

[273] William Wei, *The Asian American Movement* (Philadelphia: Temple University Press, 1993), 3, 281-82; Wollenberg, *All Deliberate Speed*, 165. Quotes are taken from Wei, *The Asian American Movement*, 282, 3; and, Wollenberg, *All Deliberate Speed*, 165.

[274] Wei, *The Asian American Movement* is the most comprehensive treatment of Asian American student activism. For quotes, see 173, 174.

[275] Sucheng Chan, "The Asian-American Movement, 1960s-1980s," in *Peoples of Color in the West*, eds. Sucheng Chan, *et. al*. (Lexington, MA: DC Heath and Co., 1994), 527.

[276] Ronald Takaki, *Strangers From a Different Shore: A History of Asian Americans*, updated and rev. ed. (Boston: Little, Brown, and Co., 1989, rev. ed., 1998), 474-88; 492-3, 502, 508.

compliance plan meeting Office of Education guidelines, Judge Garrity composed one for the schools in light of those guidelines. Among other things, the plan called for children to be bused between two working class communities, the mostly white, largely Irish, South Boston and the mostly black, Roxbury.

The results were explosive and too often violent. On October 7, 1974 outside the school gates of South Boston High in the heart of Boston's Irish-American community an anti-busing riot transpired where whites beat a Haitian student. Similarly, a black student stabbed a white student on December 11 at South Boston High. Black community leaders like Ruth Batson, head of the NAACP's Public School Committee, attorney Thomas Atkins, and Ellen Jackson, head of the Freedom House, an important Roxbury Community Center, struggled valiantly to forge a peaceful struggle. Louise Day Hicks headed the school committee as well as the key antibusing group of white parents: ROAR — Restore Our Alienated Rights. The leaders of the anti-busing movement in Boston consistently fanned the flames of conflict with their heated rhetoric and outrageous public actions. The flip side of Boston's carefully cultivated image as an enlightened and progressive city was on full view for all to see.[277]

It is important to acknowledge that the origins, meanings, and consequences of the antibusing movement North and South were often complex. In his study of the antibusing movements in Boston, Formisano emphasizes that the protracted white opposition to court-ordered busing revealed the belief that busing was seen as a "threat to their neighborhoods and lifestyles... a trampling on their freedom." Moreover, that opposition also revealed working- and lower middle-class white resentment at a court-ordered desegregation plan developed by elites without adequate consideration of the legitimate concerns of those very working and lower middle-class whites.[278]

The next milestone in the school desegregation movement was the 1974 Supreme Court ruling in *Milliken v. Bradley*. Here the issue was whether the court would sustain a lower court order seeking to create a metropolitan district bridging the largely black city of Detroit and the surrounding white suburbs. The essential problem, as encountered in Charlotte, Richmond, and in communities throughout the country, was the entrenched pattern of residential segregation, especially black core cities ringed by white suburbs. Unfortunately, there was literally no possibility of creating a desegregated school system in communities like Detroit — and Richmond — without some kind of metropolitan solution.

In a 5-4 decision written by Chief Justice Warren Burger, the court handed down the first major Supreme Court defeat for the school desegregation movement in recent memory. In the decision, the court ruled that there was no evidence of intentional discrimination on the part of the county school systems. In addition, it maintained that a metropolitan system would unduly burden the county systems, which were not found to have engaged in de jure or de facto discrimination against blacks. In effect, the court agreed that Detroit would have to forego a desegregated metropolitan school system that included significant numbers of whites.[279]

PUBLIC INSTITUTIONS, DESEGREGATION, BLACK STUDIES, AND ETHNIC STUDIES

The late sixties and early seventies witnessed a pattern of growth in the number of students of color in

[277] Henry Hampton and Steve Fayer with Sarah Flynn, *Voices of Freedom: An Oral History of the Civil Rights Movement from the 1950s Through the 1980s* (New York: Bantam, 1990), 587-619.

[278] Formisano, *Boston Against Busing*, 237, 221-2.

[279] Orfield, *Dismantling Desegregation*, 10-11.

public colleges and universities throughout the country, notably in the South. Concurrently, the establishment of departments within public institutions of higher education devoted to the study of the histories and experiences of peoples of color, grew tremendously. This was a period where intellectual and academic activism interacted dynamically with the increasingly radical social movements of communities of color. It was clear, for example, that self-determination in Indian education extended beyond K-12 schooling. In 1961, American Indian scholar Jack Forbes penned a position paper outlining a pan-Indian university. Ten years later, Deganawidah-Questzacoatl (D-Q) University became a reality due to both the labor of dedicated activists, such as Forbes, and as part of the negotiated settlement ending Indian occupation of Alcatraz Island.

Beginning in November 1969, the nineteen-month occupation of "The Rock" brought national and global attention to native issues and concerns. Navajo participant Anna Boyd remembered, ". . .we had the Indian Power machine going and we were determined to change the world. We wanted our voice heard." Donations came pouring in, contributions that ranged from a desperately needed electric generator and food to less appropriate items, such as prom dresses. Rosalie MacKay, a Pomo college student with two daughters, commuted from Alcatraz to her classes in the East Bay, integrating family, human rights, and education. For students of color like MacKay, success was measured not in material gain but in social justice. In assessing the significance of Alcatraz, historian Troy Johnson declares that it "inspired a young generation of Indian activists to go on to do great things." He continues, "American Indian people would not be where they are today if it had not been for Alcatraz."[280]

One of the enduring legacies of Alcatraz is D-Q University located near Davis, California. Weathering financial and, at times, internal turmoil, D-Q University today is a fully accredited

[280] Hartmut Lutz, *D-Q University: Native American Self-Determination in Higher Education* (Davis, CA: Dept. of Applied Behavioral Sciences/Native American Studies, 1980), 21-4; Dwight Dutschke, "A History of American Indians in California" in *Five Views*, 25-6, 29, *Arizona Republic*, November 15, 1999; Judith Antell, "The Occupation of Alcatraz Island, 1969-1970," in *Peoples of Color in the American West*, 539-48. [Quotes are from the *Arizona Republic*]. For more information, see Troy Johnson, *The Occupation of Alcatraz Island: Indian Self-Determination and the Rise of Indian Activism* (Urbana: University of Illinois Press, 1996).

two year college. Founded by American Indian and Chicano activists, D-Q emphasizes four goals in its mission "as an instrument of social reform toward self-determination."[281]

> . . .The first is to provide a program of academic excellence, education, and training for Native People in a cultural context. . .
> Secondly, D-Q University shall provide a practicum for its students combining contemporary technologies and professional skills to meet the pressing present needs of both communities.
> Thirdly, D-Q University perceives the preservation and development of cultural heritage as substantive disciplinary areas of scholarly inquiry and exploration. . .
> Fourth, D-Q University was founded to serve as a national development center for Indian and Chicano communities. We seek to serve the communities in which we live. . .[282]

The Native American desire for social justice, for education geared toward community empowerment on the part of American Indians coincided with and paralleled similar aspirations expressed by Blacks, Chicanos and Asian Americans.

The creation of D-Q University highlighted the history of the Historically Black College and University (HBCU) and the vital role these institutions have continued to play in the aftermath of *Brown*. While formerly all-white public institutions of higher education increasingly opened their doors to blacks and other students of color in this period, most black students in the period under consideration here continued to be educated in predominantly black institutions of higher education. As a result, the U.S. Court of Appeals ruling in *Adams v. Richardson* (1973) which demanded that those southern states continuing to operate dual systems of higher education had to desegregate them. Exactly how this was to be accomplished, however, was not at all clear since the court also recognized the importance of the HBCUs, and also ruled that these institutions had to be preserved. In effect, the court sought at once to increase the access of black students to formerly all-white institutions while it protected and strengthened the HBCUs.[283]

As part of global student movements of the late 1960s, Mexican American youth joined together to address continuing problems of discrimination, especially in education and political representation. They transformed a pejorative barrio term "Chicano" into a symbol of pride. Negro American students along with other black activists had pioneered much the same thing shortly before in shifting the locus of their identity from "Negro" to "black." As a result of enlarging the meanings of such group identities, black activists, especially black student activists, contributed significantly to the concurrent explosion in Third World identity politics within the continental United States, among Chicano/as and others.

The creation of separate Departments of Black Studies as well as Departments of Black Studies within broader Third World or Ethnic Studies Departments proliferated at this point. A critical factor in this development was the rapidly expanding number of black students now attending desegregated public

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[281] Dutschke. "A History of American Indians," 25-6, 29; Lutz, *D-Q University*, 21-2, [Quote is from Lutz, D-Q University, 27]. The original core faculty in Native American Studies at UC Davis, including Jack Forbes, David Risling, Jr., Sarah Hutchinson, Carl Gorman, and Ken Martin, must be acknowledged for their unstinting commitment to D-Q.

[282] "Philosophy and Objectives of D-Q University," as quoted in Lutz, *D-Q University*, 26-7.

[283] John B. Williams III, *Desegregating America's Colleges and Universities* (1987), Raffel, *Historical Dictionary of School Segregation and Desegregation*, 4-6.

institutions of higher education, like the Universities of California at Berkeley and at Los Angeles. Desegregation presented the public college and university with a daunting array of challenges and opportunities. Clearly a key concern among students of color, including black students, was equal educational opportunity and educational relevance, and not one-way assimilation into a white-dominated mainstream. That mainstream had to be changed—colorized, so to speak—to accommodate the growing numbers of students of color and their particular intellectual and academic concerns.[284]

The less well known story of Chicano/a student activism is most revealing. "Chicano/a" implies a commitment to social justice and to social change. The movement sparked in 1967 as Mexican Americans formed their own organizations on college campuses. Their numbers were relatively small; one survey revealed that the cumulative undergraduate enrollment for seven southwestern colleges included only 3,227 Mexican Americans (2,126 men, 1,101 women). In 1968, due to student pressure the first Chicano Studies program was founded at California State University, Los Angeles.[285]

Activism was not limited to college campuses. A group of high school teens, including student council officers, circulated petitions urging the school board to take concrete measures to improve the quality of secondary education in East Los Angeles. Board members politely received the petitions and then discarded them. As a result, in March 1968, over 10,000 youngsters at five area schools (Roosevelt, Wilson, Lincoln, Garfield, and Belmont) walked out. Staging the largest student walkout in the history of the United States, the young leaders had now captured the attention of the board. They demanded a revised curriculum to include Mexican/Chicano history and culture; the recruitment of more Mexican Americans teachers; an end to the tracking of Chicano students into vocational education; and the removal of racist teachers. They also desired smaller classes and upgraded libraries. Vicky Castro recalled that issues ranged "from better food all the way to. . .we want to go to college."[286] Another student

[284] Armstead Robinson, *et.al*., *Black Studies in the University: A Symposium* (New Haven: Yale University Press, 1969); Nathan Huggins, *Afro-American Studies: A Report to the Ford Foundation* (New York, Ford Foundation, Office of Reports, 1985).

[285] Thomas P. Carter, *Mexican Americans in School: A History of Educational Neglect* (Princeton: College Entrance Examination Board, 1970), 31; Marguerite V. Marin, *Social Protest in an Urban Barrio: A Study of the Chicano Movement, 1966-1974* (Lanham, MD: University Press of America, 1991), 114-16; Carlos Muñoz, Jr., *Youth, Identity, and Power: The Chicano Movement* (New York: Verso, 1989), 58-9. In 1960 the per capita income for Mexicans in the Southwest averaged "$968 compared to $2,047 for Anglos." Furthermore, the median years of school completed by Mexican workers in 1960 was only 7.1 years in comparison to 12.1 for European Americans and 9.0 for "nonwhites." (Acuña, *Occupied America*, 350; Carter, *Mexican Americans in Schools*, 23.)

[286] *Chicano Student News*, March 15, 1968; "Proposals Made by High School Students of East Los Angeles to Board of Education, March 1968," Chicano Blowouts Collection, Chicano Resource Center, East Los Angeles Public Library; Edward J. Escobar, "The Dialectics of Repression: The Los Angeles Police Department and the Chicano Movement, 1968-1971," *Journal of American History*, 79:4 (March 1993): 1495; Script for Episode three of "The Blowouts: The Struggle for Educational Reform," of CHICANO! (Galan Productions, 1996), 6-7, 10-18. Quote is from CHICANO, 6. Vicky Castro is now a board member of the Los Angeles Unified School District.

who walked out, artist Patissi Valdez, succinctly related the attitude of her home economics teacher as an example of the lessons taught at her school:

> She would say: ". . .You little Mexicans, you better learn and pay attention. This class is very important because. . .most of you are going to be cooking and cleaning for other people."[287]

Students, moreover, had few Mexican American role models as "only 2.7 percent of the teachers . . .had Spanish surnames." One of these educators, Sal Castro, joined the protesters; he could not in good conscience remain inside the walls of Abraham Lincoln High School.[288]
The East Los Angeles "blowouts" lasted over a week. One Los Angeles Times reporter referred to the protests as "the birth of brown power." The media keyed in on banners carried by students: "Chicano Power," "Viva La Raza," and "Viva La Revolución." The Los Angeles police department overreacted at Roosevelt and Belmont, chasing and bludgeoning teens. Describing the scene, Mita Cuarón declared, "It didn't match the thing we were doing. We didn't commit a crime. We were protesting." The blowouts did initiate reform in Los Angeles schools. "We were very successful at informing the public about how serious conditions were," reflected Paula Cristonomo. In fact, Senator Robert Kennedy met with the students and sent a telegram of support.[289]

Walkouts in Mexican schools followed in such disparate cities as Denver, Phoenix, and San Antonio. Such militancy was not confined to the Southwest. Writer Ana Castillo, a native of Chicago, recalled her own adolescent activism. "I went downtown and rallied around City Hall along with hundreds of other youth screaming 'Viva La Raza' and 'Chicano Power!' until we were hoarse." Demonstrations also proliferated on college campuses. A coalition of students of color orchestrated the 1968-69 Third World Strike at San Francisco State University and the 1969 Third World Strike at the University of California, Berkeley. Facing police batons and arrests and institutional resistance at both campuses, students at both institutions called for the creation of a third world college, dedicated to people of color and run by the students of color in concert with communities of color. Departments of Ethnic Studies on both campuses were the concrete results.[290]

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[287] CHICANO!, 5.

[288] Rudolfo Acuña, *Community Under Siege: A Chronicle of Chicanos East of the Los Angeles River, 1945-1975* (Los Angeles: UCLA Chicano Studies Research Center, 1984), 142; Acuña, *Occupied America*, 358; CHICANO!, 11-14. Quote is from CHICANO!, 14. Note: Sal Castro and twelve others were indicted on conspiracy charges for their participation in the blowouts. The case against the LA Thirteen was thrown out of court two years later.

[289] Muñoz, *Youth, Identity, Power*, 64-5; CHICANO!, 14, 16, 20-1, 35; *La Raza* 1:11 (March 31, 1968), 6; Escobar, "the Dialectics of Repression," 1495-6; *Chicano Student News*, March 15, 1968. {Quotes are from CHICANO!, 20, 35, respectively.] For an excellent account of the blowouts, see Dolores Delgado Bernal, "Grassroots Leadership Reconceptualized: Chicana Oral Histories and the 1968 East Los Angeles Blowouts," *Frontiers: A Journal of Women's Studies* 19:2 (1998), 113-42.

[290] Acuña, *Occupied America*, 358; Muñoz, *Youth, Identity, Power*, 68-70, 131-32; Ana Castillo, *Massacre of the Dreamers: Essays on Xicanisma* (Albuquerque: University of New Mexico Press, 1994), 24, 26.

For well over a century, African Americans, American Indians, Asian Americans, and Mexican Americans have woven tapestries of resistance against school segregation and discrimination. Two factors stood out and drove the various, at times related and at other times overlapping, efforts to uproot de jure and de facto segregation of peoples of color in public school education. First and foremost were the escalating civil rights struggles of African Americans and Mexican Americans in particular. Equal educational opportunity was a critical aim of the African American Civil Rights Movement, notably in the South, and the Mexican American Civil Rights Movement, notably in the Southwest and the West.

Second, the legal defense arm of the NAACP spearheaded the ongoing and ultimately successful legal campaign against Jim Crow education for southern blacks at the post-secondary, elementary, and high school levels. The impact of this legal campaign was diverse and profound. The campaign led directly to the critical Supreme Court rulings in *Brown v. Board of Education* (1954, 1955) dismantling the legal edifice bracing the structures of Jim Crow and *Plessy v. Ferguson* (1896). It galvanized the growing movement for racial desegregation of schools. Correspondingly, it spurred the strong and widespread white opposition to school desegregation. Even more broadly, the campaign revitalized the enduring Black Freedom Struggle in the form of the modern Civil Rights (1954-1966) and Black Power (1966-1975) Movements.

The school desegregation struggle was equally vital to the broader Mexican American Civil Rights Struggle and, especially, the Chicano Movement (1968-1975). Like the NAACP's Legal Defense and Educational Fund, the Mexican American Legal Defense and Education Fund, established in 1970, was crucial to the subsequent story of Mexican American school desegregation. It is important to understand, however, that the Mexican American struggle for educational equity, like those of Asian Americans and Native Americans, must be understood on its own terms. These stories have often developed along historical paths apart from that of the African American story as well as apart from one another, or other communities of color.

In an allegedly enlightened, post-Civil Rights era, we have witnessed a growing return to separate albeit equal education with an apparent emphasis on educational equality. The evolving standard of desegregation has highlighted, at least rhetorically if not actually, equality of educational opportunity for all students. Needless to say, poor students as well as students of color have suffered the most as a result of what has actually amounted to a declining commitment to school desegregation. Leading school desegregation expert Gary Orfield and his scholarly team have recently provided a compelling characterization of this trend in the title of one of their latest book projects: *Dismantling Desegregation: The Quiet Reversal of Brown v. Board of Education*.[291]

The history of school desegregation since 1971 suggests a rocky and uneven history, at best. In the last decade or so of the twentieth century, the story has turned toward a growing national

[291] Gary Orfield, *et. al., Dismantling Desegregation: The Quiet Reversal of Brown v. Board of Education* (New York: The New Press, 1996).

pattern of retrogression and resegregation in many places.[292] Yet, hopes are placed in the constancy of struggle that has marked the collective journeys toward civil rights in this country. "For only when we act, despite our uncertainties and doubts, do we have a chance to shape history."[293]

[292] Orfield, *Dismantling Segregation*, 10-11.

[293] *The Arizona Republic*, January 17, 1999.

F. ASSOCIATED PROPERTY TYPES

Property types under the *Racial Desegregation in Public Education Theme Study* will illustrate or commemorate key events, decisions, or persons in the historical movement to desegregate schools. Such properties will be associated with the period between the first legal challenge to school segregation in 1849 and the U.S. Supreme Court's ruling declaring school segregation unconstitutional in 1954.

In addition, properties associated with school desegregation between 1955-1968 should be considered for nomination under this theme. Such properties will be associated either with the period of massive resistance to school desegregation by local and state governments or with the period when the emphasis on desegregating schools changed to integrating schools. Normally properties that have achieved significance within the last 50 years are not eligible for National Historic Landmark (NHL) designation or listing in the National Register. However, extraordinary events that occurred during this time period may have made some of these properties exceptionally important and therefore eligible for NHL designation and National Register listing.

Lastly, in the 1970s new issues came forth in school desegregation. Busing as a means to integrate public schools became a hotly contested and emotional issue for parents and the judicial system. Bilingual education was mandated to assist in school integration for Mexican and Asian Americans. De facto segregation in non-southern states was determined unconstitutional. Generally only twenty-five years old, sites associated with crucial or definitive events and decisions in these and other areas should be evaluated for potential future nomination.

PROPERTY TYPES

Because the school desegregation movement occurred over a long period and involved many individuals, groups, and agencies, the *Racial Desegregation in Public Education Theme Study* has multiple property types.

1. **Schools associated with challenges to educational desegregation.** These are the schools most likely to have been involved in school segregation litigation that interpret and illustrate segregation conditions supported by whites and opposed by minority groups. Therefore, both white and minority schools are included in this property type. NHL examples include the all-white Sumner School and the all-black Monroe School in Topeka, Kansas, two of the schools associated with the U.S. Supreme Court's decision overturning the separate but equal doctrine in *Brown v. Board of Education*. Other schools that have not been involved in litigation may also be considered, such as private white schools created when school boards closed their public schools to avoid desegregation that illustrate the extremes to which some citizens and local governments would go to maintain segregation.

2. **Courts associated with rulings in school desegregation and integration.** The federal judicial system played a prominent role in how school desegregation and integration proceeded following the U.S. Supreme Court's 1954 decision that the "separate but equal" doctrine had no place in public education and that desegregation should proceed with "all deliberate speed". Lower federal courts, particularly the U.S. District Courts of Appeal, greatly influenced school desegregation especially prior to adoption of the Civil Rights Act when the courts and the government shared in school desegregation efforts. Such properties should possess exceptional value or quality in illustrating or interpreting the judicial role in this movement.

3. **Properties associated with prominent persons.** These may be persons who were actively

involved in school desegregation court cases or events and generally will include attorneys, judges, expert witnesses, and activists. Property types will be those most closely associated with a person's productive life such as a home, courthouse, or office. One example of an NHL is the home of abolitionist and attorney Charles Sumner who made the first legal argument for school desegregation in *Roberts v. City of Boston* (1849).

4. **Properties associated with community groups.** These include places associated with grassroots efforts to initiate and plan challenges for or against school desegregation. Community groups made pivotal decisions on how to proceed with a case or demonstration. Property types will often be homes, churches, or meeting halls. No such properties are currently designated as NHLs.

5. **Properties associated with ethnic organizations and institutions.** Such organizations were involved in leading the equal educational movement of their cultural group by providing judicial and political expertise to individuals and communities. The associated property type will most likely be the building housing the organization's headquarters or the location where strategic planning or community outreach meetings took place. No such properties are currently designated as NHLs.

6. **Properties associated with conflict or confrontation.** These properties will often be the sites where groups and/or government either protested or enforced school desegregation. Property types will most likely include schools or public spaces where events occurred. One NHL example is Little Rock High School (Little Rock Central High School) in Little Rock, Arkansas, for its association with the confrontation between state authorities and federal troops in integrating the school.

PROPERTY TYPE SIGNIFICANCE

Outlined in this section are registration requirements that agencies and individuals will use to identify historic places that best illustrate or interpret key events or decisions in the historical movement to racially desegregate schools. Overall, to be considered NHLs, properties must meet one or more of the six NHL criteria and possess high integrity. National Register properties must meet one of the four National Register criteria and possess integrity. NHL criteria are contained in 36 CFR Part 65.4 [a and b]. General guidance in applying criteria and assessing integrity for NHLs is found in the National Register Bulletin *How to Prepare National Historic Landmark Nominations*. National Register criteria are contained in 36 CFR Part 60. General guidance in applying the criteria and assessing integrity for National Register nominations is found in the National Register Bulletin: *How to Apply the National Register Criteria for Evaluation*.

The requirements for meeting both NHL and NR criteria as they relate to the *Racial Desegregation in Public Education Theme Study* are discussed below.

PROPERTY TYPE REGISTRATION REQUIREMENTS

Associative Characteristics for National Historic Landmarks

In assessing whether a property meets NHL criteria, associative characteristics are used to evaluate a property's connection to a given context. Associative characteristics generally include such factors as a property's relationship to important activities, events, or persons in the historic time frame during which these associations occurred. Properties eligible for consideration under this context must have played a definitive or crucial role in the national development of school desegregation that directly influenced the interpretation or implementation of the constitutional rights of children to a racially nondiscriminatory

education between 1849 and 1974. Events and decisions are generally of three types: 1) court cases that defined how desegregation would evolve, 2) events involving resistance to school desegregation, and 3) events that portrayed federal enforcement of school desegregation. These events and decisions must have served as milestones in how school desegregation proceeded under the U.S. Constitution.

Associative Characteristics Include:

An association with a definitive or crucial school desegregation event or decision between 1849 and 1974 that is either:

- A U.S. Supreme Court ruling interpreting the U.S. Constitution
- A federal case that provided a definitive or crucial ruling implementing school desegregation or integration
- A federal government action that provided enforcement of school desegregation

NHLs designated under this theme study must be acknowledged to be among the nation's most significant historic properties associated with school desegregation. The property must possess exceptional value or quality in illustrating or interpreting the movement to the nation as a whole. To have exceptional value the property must be directly associated with the event or decision, be able to convey its appearance and function during its time of significance, and embody a unique aspect connected with the event or decision.

School desegregation properties will be eligible for National Historic Landmark designation under Criterion 1 or 2 as follows:

National Historic Landmarks Criterion 1: Properties that are associated with events that have made a significant contribution to, and are identified with, or that outstandingly represent, the broad national patterns of United States history and from which an understanding and appreciation of those patterns may be gained.

Criterion 1 recognizes properties associated with events important in the broad national patterns of U.S. history. These can be specific one-time events or a pattern of events that made a significant contribution to the development of the United States. As related in this historic context, the movement to desegregate and integrate schools between 1849 and 1974 represents a monumental event in achieving equal rights under the Fourteenth Amendment to the U.S. Constitution and affecting the lives of thousands of parents, children, and communities.

A property associated with a school desegregation event between 1849-1974 may be eligible as an NHL under Criterion 1 if it is shown that the property is associated with one of the following four chronological patterns of history in school desegregation:

(1) **SCHOOL SEGREGATION (1849-1896):** From the mid to late 19th century, judicial and federal actions limited minority education and encouraged de jure segregation in public education. The beginning of this period is marked by the first legal challenge to school segregation when the Massachusetts

Supreme Court dealt a precedent-making decision in *Roberts v. City of Boston* (1849) that established the separate but equal principle in black education. Subsequent judicial and legislative actions seriously undermined and discouraged legal challenges to school segregation. While the Fourteenth Amendment gave black Americans citizenship (1868), later interpretations, the Civil Rights Acts (1866 and 1875) and subsequent U.S. Supreme Court cases limited rights of blacks in individual states. Even the Morrill Act (1890) that gave rise to Historically Black Colleges and Universities through federal land grants legitimized segregation by permitting states to create and fund separate African American land-grant colleges.

The only definitive or crucial school desegregation event or decision that occurred during this phase at the national level was the case of *Roberts v. City of Boston* (1849). It appears unlikely that any properties other than those associated with *Roberts* would be eligible for NHL designation under this pattern of history.

(2) **FEDERALLY SANCTIONED SCHOOL SEGREGATION (1896-1950).** The first quarter of the 20th century officially sanctioned school segregation, and the second quarter began the breakdown of the separate portion of the separate but equal doctrine. In 1896, the U.S. Supreme Court formalized the so-called "separate but equal" doctrine with the case of *Plessy v. Ferguson* whereby states could require racial separation if facilities for blacks and whites were of equal quality. Between 1899 and 1927, the U.S. Supreme Court condoned the practice of school segregation in *Cumming v. Richmond* (1899), *Berea v. Commonwealth of Kentucky* (1908), and *Gong Lum v. Rice* (1927) and established the States' preeminent rights in education. Successful legal challenges to school segregation included *Westminster v. Mendez* (1945), a precedent setting case for Mexican Americans that made de jure segregation illegal in California, and two NAACP cases before the U.S. Supreme Court that gained admission of African Americans at the graduate and professional school level.

Properties considered for NHL designation under this phase should define the struggle between states' rights and the federal role in education, interpretation of the U.S. Constitution, or the contribution of an ethnic organization to securing national or regional school desegregation.

(3) **SCHOOL DESEGREGATION AND MASSIVE RESISTANCE (1951-1967).** During this phase minorities attained and were subsequently denied legal access to a nondiscriminatory education. In its 1954 landmark *Brown* decision, the U.S. Supreme Court overturned the separate but equal doctrine. This decision was followed by an intense period of Southern reaction to school desegregation. In defiance of the Constitution and in support of what they saw as their traditional way of life, the South resorted to tactics to keep a dual school system. Federal intervention through the courts and, later, the Civil Rights Act became necessary to assure desegregation.

Properties associated with this phase should represent the social and political impact of the U.S. Supreme Court's decision, political aspects of school integration under two presidential administrations, and the impact of massive resistance at the primary, secondary, and higher levels of education. Properties considered for this event are less than fifty years old and must be exceptionally significant for NHL designation.

(4) **SCHOOL INTEGRATION (1968-1974).** This phase is nationally significant as the period when the search for equal educational opportunities shifted from undoing racial segregation to attaining integration. Southern resistance that provided only token desegregation forced the courts, and the federal government through the Civil Rights Act, to establish qualifying factors and methods to

achieve and measure the success of school integration across the country. The period began with the Federal District Court ruling in *Green v. County School Board of New Kent County* (1968) that established the elements of an acceptable desegregation plan. Later court rulings authorized busing and bilingual education as means to integrate schools.

Historic properties associated with this phase should represent milestone decisions that embody the prominent role the courts played in administering school integration and the continuing drive by minorities to gain a racially nondiscriminatory education. Properties considered for this event are less than fifty years old and must be exceptionally significant for NHL designation.

National Historic Landmarks Criterion 2: Properties that are associated importantly with the lives of persons nationally significant in the history of the United States.

Properties may be designated as NHLs for their association with the lives of individuals who are significant in the history of the United States as a whole. General guidance for nominating such properties is given in National Register Bulletin 32: *Guidelines for Evaluating and Documenting Properties Associated with Significant Persons.*

For a property to be designated as an NHL, the person(s) with whom the property is associated must be nationally significant within the historic context. Furthermore, the property must be associated with the person's productive life and must have a significant association with the individual and his or her school desegregation activity. The school desegregation context notes individuals who played a major role in leading efforts to desegregate schools. Properties associated with the many dedicated individuals who influenced school desegregation may be eligible for listing in the National Register. To be designated as an NHL under the *Racial Desegregation in Public Education Theme Study*, the property must be associated with a person

who played a definitive or crucial role in the development of the constitutional right of children to a racially nondiscriminatory public education at the national level.

To determine a definitive national role, it will be necessary to compare the individual's contributions with the contributions of others in the same field. For example, many highly talented and committed NAACP Legal Defense and Educational Fund (LDF) lawyers litigated cases of national importance, but designation as an NHL is limited to those properties associated with LDF lawyers who are of exceptional importance in illustrating the national context. More than one lawyer may be shown as having an exceptional role or major influence in legal school desegregation if it can be demonstrated that he/she played a distinctively significant role in comparison with others.

As of August 2000, one NHL property is associated with a significant individual in school desegregation. The Charles Sumner House is associated with the abolitionist and attorney, who in 1846, was the first to argue that school desegregation was inherently unequal. Properties associated with other individuals who have distinguished themselves as forerunners and leaders in the field of litigation during a specific time period or phase in school desegregation that affected constitutional rights should also be evaluated for possible NHL designation. Individuals such as Attorney Charles Hamilton Houston planned the legal attack on segregated graduate and professional schools, turned Howard Law School into a training ground for civil rights attorneys, and directed the NAACP's first legal attacks on segregation. The career of Houston's protégé, Thurgood Marshall, reflected a lifetime of achievement in school desegregation as special counsel with the NAACP LDF. Others in various fields may include activists such as Daisy Bates, whose leadership was a major factor in bringing about school desegregation at Central High School; judges who established guidelines for school desegregation, or social psychologists influential in demonstrating the damage to minority children caused by a dual school system.

ASSOCIATIVE CHARACTERISTICS FOR THE NATIONAL REGISTER OF HISTORIC PLACES

School desegregation properties may be eligible for listing in the National Register of Historic Places under Criterion A and Criterion B. Placement of the historic property within local and state historic contexts is necessary to determine relative significance. Experiences with school desegregation vary state by state as well as within the state itself. The requirements for meeting the evaluation of criteria for National Register eligibility of properties as they relate to the *Racial Desegregation in Public Education Theme Study* are discussed below.

Criterion A, associated with events that have made a significant contribution to the broad patterns of our history.

Criterion A recognizes properties associated with events important in this historic context. A property associated with a school desegregation event between 1849-1974 may be eligible for the National Register under Criterion A if it is shown that the property played a definitive or crucial role in school desegregation that involved the interpretation or implementation of the constitutional rights of children to education at the national, state, or local level. Properties that have achieved significance within the last fifty years must be exceptionally important to be eligible for the National Register.

Examples of properties may be schools involved in important court cases and events that defined massive resistance and the right of children to equal education at the local level such as *Bush v. Orleans Parish School Board,* the result of an eight-year struggle to desegregate schools in New Orleans. Schools associated with the Chinese struggle in California for equal education following the *Ward v.*

Tape case that kept Chinese students out of white schools may also be eligible. Also in California is the Florin East Elementary School, associated with the successful efforts of the Japanese community to integrate their school.

Criterion B, associated with lives of persons significant in our past.

Properties may be eligible for the National Register for their association with the lives of individuals who are significant in the history of school desegregation at the local, state, or national level. General guidance for nominating properties is given in National Register Bulletin 32: *Guidelines for Evaluating and Documenting Properties Associated with Significant Persons*. To be eligible for the National Register, the property must be associated with a person who is significant within the historic context and must be associated with the individual's desegregation activity.

Under the *Racial Desegregation in Public Education Theme Study*, the person should have played a significant role in the development of school segregation or desegregation at the national, state, or local level. For example, local NAACP lawyers performed crucial work within their respective states; such as civil rights lawyer A.P. Tureaud in New Orleans. Using NAACP LDF material and guidance, these lawyers led the way to school desegregation in their communities and states. Other persons may include activists, judges, and community leaders. Properties that have achieved significance within the last fifty years must be exceptionally important to be eligible for the National Register.

AREAS OF SIGNIFICANCE

Both National Historic Landmarks and National Register properties reflect areas of significance. Properties associated with school desegregation are most likely to reflect the following areas of significance:

Politics/Government, for the Federal government's acceptance of responsibility, through legislative and direct action, in ensuring constitutional rights for minorities and the relationship between state and federal roles in education.

Law, for the role of the courts in segregating and desegregating schools.

Education, for the effects of the movement for equal education on education itself.

Ethnic Heritage, as a reflection of the actions of minorities to assure equal education for their children.

Social History, as part of the broader civil rights movement.

PROPERTY TYPE REGISTRATION REQUIREMENTS

Properties considered for registration as NHLs or listing in the National Register 1) must date from one of the defined periods of the historic movement to desegregate schools and 2) must be associated with one of the NHL or National Register criteria and areas of significance identified above. In addition the property must retain integrity.

A property must have integrity to be considered for either NHL designation or National Register eligibility. Integrity is defined as the ability of a property to convey its significance. Properties must retain the essential physical features that enable them to convey their historic significance. There are seven aspects or qualities of integrity: location, design, setting, materials, workmanship, feeling, and

association. For National Register listing, properties must possess several, and usually most, of these aspects. For NHL designation, properties should possess these aspects to a high degree.

All properties must retain the essential physical features that define both *why* a property is significant (criteria and themes) and *when* it was significant (periods of significance). These are the features without which a property can no longer be identifed as, for instance, an early 20th century school, church or courthouse. The importance of these aspects under the *Racial Desegregation in Public Education Theme Study* is as follows.

Location. Location is the place where the historic property was constructed or the event occurred. Within the school desegregation theme study, location helps to define geographic attitudes to desegregation. While most large schools and courthouses will remain in their original location by virtue of their size, small schools or houses associated with this theme may have been moved. All properties associated with this theme should be in their original location.

Design. Design is the combination of elements that create the historic form, plan, space, structure, and style of a property. Although many school desegregation properties are recent, schools, houses, churches and other related properties most likely will have experienced some changes over time. For example a school converted to a community center may maintain its original form, plan, and space and retain integrity. A school converted to elderly housing, losing its original plan completely may have lost its ability to convey its significance as a school. These changes will vary in importance depending upon the property's significance.

Setting. Setting is the physical environment of a historic property. Over time settings may have changed, for instance, a rural property that has become a suburb. Consider the significance of the individual property and whether the setting is important in interpreting that significance.

Materials. Materials are the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property. A property must retain the key exterior materials dating from its period of significance to be eligible under this theme study. For events that happened inside buildings, retention of interior materials will be important.

Workmanship. Workmanship is the physical evidence of the crafts of a particular culture or people during any given period in history. This element is most often associated with architecturally important properties. However, it is also of importance to school desegregation properties for illustrating a time period associated with an event.

Feeling. Feeling is a property's expression of the aesthetic or historic sense of a particular period of time. With regard to school desegregation properties, integrity of feeling may be associated with the concept of retaining a "sense of place". For example a school or courthouse retaining original design, materials, workmanship and setting will relate the feeling of community life in the mid-20th century.

Association. Association is the direct link between an important historic event or person and a historic property. While many historic events associated with the development of school desegregation took place in Congress and capitols, the most tangible manifestations of these activities may be other properties such as schools themselves.

Examples of Integrity Analysis

The Rosedale School is associated with the U.S. Supreme Court ruling in *Gong Lum v. Rice* (1927)

and was the place where a Chinese American student was dismissed from the school solely based on her race. The court's ruling established the right of states to classify students by race for the purpose of public education. At the time of the event the school had a brick exterior. In the 1950s stucco was applied over the bricks. Due to the exterior alteration, the school lacked integrity of materials.

In *McLaurin v. Oklahoma State Regents for Higher Education* (1950) an African American student was admitted to the University of Oklahoma on a segregated basis whereby the university required him to sit separately from the white students in his classroom and the library. The classroom building lacked integrity of design because the classroom had been converted to offices and could no longer interpret the actual event. The library building remains original in both its exterior and interior with the exception of a rear addition. Despite the addition, the
building retains integrity to convey its significance because the interior and the exterior as viewed when entering the building have not changed since the event occurred.

G. GEOGRAPHICAL DATA

The scope of this study included the entire United States. Because most of the events and decisions associated with school desegregation are concentrated mainly in the South due to de jure segregation, the majority of properties associated with this theme will be located in the South. However, some events and decisions did occur in other areas of the country. Therefore properties are anticipated in the West for Mexican Americans, as well as in the North, as courts determined that de facto segregation was unconstitutional.

H. SUMMARY OF SURVEY AND IDENTIFICATION METHODS

METHODOLOGY FOR NATIONAL HISTORIC LANDMARK EVALUATION

Seven National Historic Landmarks (NHLs) and one property contained within a National Historic Site were recognized as being associated with the historic movement to desegregate schools as of August 8, 2000. These properties are listed below under the section entitled Examples of Nationally Significant Historic Properties. As a result of this study, it was determined that additional properties should be considered for nomination.

The properties chosen for additional consideration began with the identification at the state level of all known properties related to school desegregation. A list of properties was compiled, starting with those that were already listed in the National Register of Historic Places. This list was augmented by information provided by State Historic Preservation Offices (SHPO) and other interested parties in response to a letter from the National Park Service staff asking them to identify school desegregation related properties in all states and territories.

Based on the historic context and information received, staff conducted additional research on crucial events and decisions contained within the context and identified by SHPOs and other parties to determine whether an event had national significance, if a related property existed, and whether it was significant within the event. Efforts concentrated on events and decisions mainly dating through the period of massive resistance in the 1960s. To identify property, research was conducted within secondary sources dealing with desegregation with ethnic groups and through court records. Overall, events and or properties were classified into one of five categories: 1) Examples of Nationally Significant Historic Properties, 2) Potential National Historic Landmarks, 3) Properties Lacking Integrity, 4) Demolished Properties, and 5) Areas for Further Research. These categories are listed below:

Examples of Nationally Significant Historic Properties

Smith School, Boston, Massachusetts – Boston African American National Historic Site
Roberts v. City of Boston (1849)
This school represents the pivotal point in legally mandated school segregation when the Massachusetts Supreme Court established the separate but equal principle in *Roberts v. City of Boston* (1849). This principle directly influenced the U.S. Supreme Court's decision in *Plessy v. Ferguson* (1896) that allowed separate but equal under the Constitution. Located in a pre-civil war free black community, and part of the Boston African American National Historic Site, Smith School was the all-black school associated with this first legal challenge to school segregation

Charles Sumner House, Boston, Massachusetts
Roberts v. City of Boston (1849)
Home of white abolitionist and attorney Charles Sumner who, along with Boston's first black attorney, Robert Morris, argued for equal education in *Roberts v. City of Boston*. Sumner concluded that separate could never be inherently equal and that segregation marked a race as inferior. Such an argument would not be made again for another century in the NAACP's professional and graduate school cases in 1950 and again in the school segregation cases consolidated in the U.S. Supreme Court's *Brown v. Board of Education* decision in 1954 that overturned the separate but equal doctrine.

Lincoln Hall, Berea College, Madison County, Kentucky
Berea v. Commonwealth of Kentucky (1908)

A private school founded in 1855, Berea College was the first college established in the U.S. for the specific purpose of educating black and white students together. In 1904 the Kentucky state legislature mandated that black and white students could only be taught simultaneously if they were taught twenty-five miles apart. The U.S. Supreme Court upheld the state's right to pass laws to regulate state chartered private institutions on the basis of race, thus lending additional credence to do the same for public schools. This is the only instance in which the U.S. Supreme Court upheld school segregation in higher education.

Supreme Court Building, Washington, D.C.
Built in 1932, the Supreme Court Building is significant for its association with the Supreme Court of the United States that has played a crucial role in interpreting the Fourteenth Amendment of the U.S. Constitution in regard to school desegregation.

Sumner and Monroe Elementary Schools, Topeka, Kansas
Brown v. Board of Education (1954)
These two schools represent the NAACP case in Topeka. They are among the 12 schools listed in the court case. Sumner Elementary School was cited as the segregated white school at which Oliver Brown was denied the right to enroll his daughter Linda. Monroe Elementary School was the segregated black school to which his daughter was assigned. This case became one of the four school segregation cases consolidated in *Brown v. Board of Education* before the U.S. Supreme Court in 1954 that overturned the separate but equal doctrine in public education.

Robert Russa Moton High School, Farmville, Virginia
Davis v. Prince Edward County (1952)
Brown v. Board of Education (1954)
Griffin v. County School Board of Prince Edward County (1964)
Moton High School was the run down high school where its students initiated a strike for equal facilities and subsequently filed suit against school desegregation. It was among the school segregation cases consolidated in *Brown v. Board of Education* (1954) before the U.S. Supreme Court case that struck down the "separate but equal" doctrine governing public school policy. Subsequently, it is associated with Virginia's efforts at "massive resistance" to school integration when Prince Edward County closed its public schools.

Central High School, Little Rock, Arkansas
Central High stands as the first test of national resolve under the Eisenhower administration to enforce black civil rights in the face of massive southern defiance during the period following the 1954 *Brown*.

Potential National Historic Landmarks

These are potential NHLs identified during the course of the study and do not represent all the properties that may be eligible as NHLs.

Andrew Rankin Memorial Chapel, Founders Library, and Frederick Douglas Memorial Hall - Howard University, Washington, D.C.
These buildings are significant for their association with Thurgood Marshall and formulation of the NAACP Legal Defense and Educational Fund's school desegregation strategy between 1930-1955 that successfully led to overturning the separate but equal doctrine in public education.

Bizzell Library - University of Oklahoma, Norman, Oklahoma
McLaurin v. Oklahoma State Regents for Higher Education (1950)

In this case the U.S. Supreme Court ruled that the university must treat students equally following admission regardless of race, thereby making separate but equal unattainable in graduate and professional education. Following admission to the University of Oklahoma on a segregated basis, African American student George McLaurin, sat separately from white students in his classroom, Bizzell Library, and in the Student Union dining area.

Howard High School – Wilmington, Delaware – listed in National Register
Belton v. Gebhart (and *Bulah v. Gebhart), Brown v. Board of Education* (1954)
This school is associated with the Delaware cases that were consolidated with the school segregation cases before the U.S. Supreme Court in *Brown v. Board of Education* that overturned the separate but equal doctrine in public education. Three other schools were also involved in these cases. Claymont High School was the all white school that denied admittance of black children being bused to Howard High School. School #29 was the white school that denied admittance to a child from the black Hockessin School.

John Philip Sousa Middle School, Washington, D.C.
Bolling v. Sharpe (1954)
This school is associated with the U.S. Supreme Court decision in *Bolling v. Sharpe* that was reached on the same day as the court's decision in *Brown v. Board of Education* ending school segregation in the nation's capitol. The case was taken separately from *Brown*, because the decision was based on the due process clause of the Fifth Amendment that did not permit racial discrimination, rather than the Fourteenth Amendment containing the equal protection clause governing the States. African American students at Brown and Shaw Junior High Schools were denied admission to the then all white John Philip Sousa Junior High School.

Summerton High School, Summerton, South Carolina – listed in the National Register
Briggs v. Elliott (1951)
Brown v. Board of Education (1954)
The only school still standing of the five schools in Clarendon County School District #22 associated with this case that was consolidated with the school segregation cases before the U.S. Supreme Court in *Brown v. Board of Education* that overturned the separate but equal doctrine in public education. Additional consideration should also be given to property associated with Kenneth Clark for his landmark psychological research and social science contribution in this case and the school segregation cases in general.

Daisy Bates House, Little Rock, Arkansas
Home of activist Daisy Bates who is exemplary of the role local activists played in school desegregation. Ms. Bates was influential as the president of the local NAACP in guiding the integration of the Little Rock Nine to Central High School from her home.

New Kent Middle School & George Watkins School – Virginia
Green v. County Board of Regents of New Kent County (1968)
Involved in a challenge to the county's "freedom-of-choice" plan, the all-white New Kent School and the all-black Watkins School represent a critically defining moment when the shift in racial education changed from desegregation to integration. In this case, the U.S. Supreme Court established what became the "Green" factors (desegregating faculty, staff, transportation, extracurricular activities, and facilities) that lower courts would use to determine if a school had achieved a unitary system.

Lyceum, University of Mississippi
The Lyceum building is the symbol of the Kennedy administration stance in enforcing the U.S. Constitution and black civil rights over Mississippi's refusal to integrate in 1962. The showdown at the Lyceum is associated with the admittance of African American student, James Meredith, and resulted in 2 deaths.

Foster Auditorium, University of Alabama
A symbol of southern resistance to school integration when in 1963 the school was integrated peacefully despite Governor Wallace's vow in the doorway of Foster Auditorium to maintain segregation.

U.S. Post Office and Court Building, Fourth Circuit Court of Appeals, Richmond, Virginia
U.S. Court of Appeals, Fifth Circuit – New Orleans, Louisiana and Atlanta, Georgia
Courts prominently associated with desegregating schools during southern massive resistance.

Properties Lacking Integrity

Rosedale Consolidated High School, Rosedale, Mississippi
Gong Lum v. Rice (1929)
This school is associated with the issue of states' rights in education, thereby extending *Plessy* to minorities other than African Americans. The U.S. Supreme Court ruled that states regulated public education and had the authority to classify students for educational purposes when a Chinese student was denied admission to the white Rosedale Consolidated High School. The school building lacks integrity for NHL designation due to alterations.

Monnet Hall, University of Oklahoma, Norman, Oklahoma
Sipuel v. Oklahoma State Board of Regents (1948)
Monnet Hall was the law school building associated with the NAACP LDF strategy to initially challenge school desegregation cases with law schools. The U.S. Supreme Court found that student admission to a public institution could not be based solely on race. The interior of Monnet Hall has been altered and no longer retains integrity to convey its significance as a classroom building.

Demolished Properties

East Louisiana Railway Station
Plessy House
John Marshall Harlan House (Judge)
Plessy v. Ferguson (1896)
New Orleans, Louisiana
The U.S. Supreme Court established the separate but equal doctrine in this case that found that separate transportation facilities for blacks and whites did not deny the equal protection of the law if they are equal, thus denying equal education for minorities for decades. No sites associated with this case were found to exist under the U.S. Constitution NHL Theme Study.

Ware High School, Augusta, Georgia
Cumming v. Richmond (1899)
Ware High School is associated with the first case in which the Supreme Court applied the separate but equal doctrine to public education and signaled that the equal portion of the doctrine would not be enforced. Under this decision the Court allowed the school board to close Ware High School to fund a black primary school and still maintain the white boys high school and white girls high school.

Poro College, St. Louis, Missouri
Missouri ex rel. Gaines v. Canada (1938)
Poro College housed the segregated law school established after the first case heard by the U.S. Supreme Court on segregation of public higher education. Addressing the "equal" part of the separate but equal doctrine for the first time since *Cumming* (1899), the court found that Missouri had to provide equal education for blacks in segregated facilities or desegregate white educational facilities.

Westminster School, Westminster, California
Mendez v. Westminster School District (1945)
Westminster School is associated with the Mexican American challenge to education discrimination when a federal district court found that segregation of Mexican American children violated the Fourteenth Amendment of the Constitution. This case ended de jure (legal) segregation of Mexican Americans in California and served as precedence in other Mexican American cases in Texas and Arizona. Westminster School has been demolished, however other schools associated with the case should be evaluated as potential historic property.

Pearce Hall – University of Texas, Austin
104 East 13th Street - Texas State University for Negroes, Austin
Sweatt v. Painter (1950)
These two buildings housed the law schools associated with the U.S. Supreme Court's determination that separate was inherently unequal in graduate and professional education. The U.S. Supreme Court compared the newly created black law school with the established white law school and found that segregated law schools for blacks could not provide an equal educational opportunity due to intangible factors.

Areas for Further Research

These are events that are either too recent to determine national significance or for which more detailed research is needed to determine national significance.

Japanese International Incident (1906-1907), California
International incident created when the San Francisco school board ordered all Japanese pupils to attend the Chinese school. Subsequent Gentlemen's Agreement (1980) between President Roosevelt and Japan resulted in the Japanese children remaining in the white school and a limitation on immigration of laborers to the continental U.S.

Chinese Six Companies (late 19th – early 20th century), California
Group that fought for equal education for Chinese at the national and state levels.

Alvarez v. Lemon Grove (1930s), California
Mexican American case that was possibly the first successful court action in favor of school desegregation in the country.

Swann v. Charlotte Mecklenburg Board of Education (1971), North Carolina
This U.S. Supreme Court case established the acceptability of busing, redistricting and racial quotas as remedies for school desegregation.

Morgan v. Hennigan (1974), Massachusetts
Following this case, northern violent reaction to busing exploded in front of South Boston High School and put the issues of busing, desegregation, and white flight at the national forefront. This may be the first time that a U.S. District Court took over governance of a school district to enforce a court created school desegregation plan.

Milliken v. Bradley (1974), Michigan
In this first ruling reversing efforts to desegregate schools, the U.S. Supreme Court limited the power of courts to order school desegregation in metropolitan areas.

Keyes v. Denver School District No. 1 (1973), Colorado
Keyes is the first non-southern desegregation case heard by the U.S. Supreme Court after the *Brown* decision. Taking place in a geographical location without a history of de jure segregation or discrimination, the case signaled to such states that de facto segregation was not constitutional. Furthermore, the court ruled that Mexican Americans constituted a recognized minority and were entitled to school desegregation remedies.

Lau v. Nichols (1974), California
A unanimous U.S. Supreme Court ruling that established the judicial mandate for bilingual education for Chinese-speaking students. The case became a significant milestone within the legacy of Asian American activism and a remedy to inequality in education.

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