

The Brown Quarterly

Quarterly Newsletter for Classroom Teachers

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Brown v. Board 45th Anniversary Issue

Spring 1999

Oral Histories

Capturing Forgotten Moments in Civil Rights History

by Jean Van Defender

The names of Farmville, Virginia, or Summerton, South Carolina are not on the lips of the average citizen thinking about the case of *Brown v. Board of Education*. Yet these communities, and others, had significant roles in the case as did Topeka, Kansas.

Thanks to the Brown Foundation working with the Kansas Congressional delegation, a site has been established to commemorate this history. The newly established *Brown v. Board of Education* National Historic Site reminds us of the very significant step on the road toward equality taken in Topeka, but also of the many steps to desegregate American schools taken elsewhere.

This site is located at the Monroe Elementary School in Topeka, Kansas. More than 40 years ago, the school was used to educate African-American children separately from white children. Monroe School will once again open its doors, but its mission has been transformed to educate us all.

It will also be a reminder to all Americans that equal rights do not come at little cost. The African American challenges to "separate but equal" arose in many places. A park dedicated to this historical struggle should connect the events in Topeka with those in other states. How can what is known primarily as a legal case be represented through a park exhibit, so that others can share the experience of those who lived through those events?

One way to supplement the historical record is through oral history interviews. Oral histories have been gathered through

interviews of persons who lived through the events surrounding these cases, many of whom were participants. These interviews connect legal abstractions with personal experiences. The site at the former Monroe Elementary School and other sites are tangible symbols of the "separate-but-equal" doctrine. They connect us with what people went through to forever change that doctrine.

Oral histories help to uncover the actions and experiences of civil rights "footsoldiers" from beneath historical abstractions. There really was an African-American family named Brown who lived in Topeka, Kansas in the early 1950's, who stood with 12 other families as plaintiffs in a suit brought by the NAACP against the Topeka School Board.

In 1991, the Brown Foundation in cooperation

with Kansas State Historical Society and Washburn University Law School, developed a proposal to create an oral history collection focusing on the people involved in and those effected by the Brown case. This would include not only the Kansas case but its companion cases from Delaware, Virginia, South Carolina, and the District of Columbia.

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First to volunteer to test the "separate but equal" doctrine in the *Brown* court case was Lucinda Todd with her daughter, Nancy.

*Commemorating the 45th Anniversary
of Brown v. Board of Education*

We hope you enjoy this special issue of the *Brown Quarterly* commemorating the 45th Anniversary of the *Brown v. Board of Education* decision handed down by the U.S. Supreme Court on May 17, 1954.

Lawyers Representing Plaintiffs in *Brown v. Board*



Charles Scott



Thurgood Marshall



John Scott



Charles Bledsoe



Elisha Scott



Charles Houston

Brown v. the Board of Education



More than 100 parents and children were plaintiffs in the case including Oliver Brown of Topeka, Kansas.

The Brown Foundation is pleased to publish this newsletter for classroom teachers through which we will share resources available from national parks and museums. Established to maintain the legacy of the *Brown* decision, our organization plays an exciting role as a park partner. In 1990 we were instrumental in developing *Brown v. Board of Education* National Historic Site in Topeka, Kansas. We hope you enjoy the *Brown Quarterly* and we eagerly anticipate your comments.

Executive Director:
Cheryl Brown
Henderson

Program Associate:
Linda Brown
Thompson

Editor/Design:
Grace L. Wilson

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Pam Baker

Not pictured:

NAACP: Robert Carter, William T. Coleman, Jack Greenberg, William H. Hastie, James M. Nabrit Jr., Frank D. Reeves, U. Simpson Tate, Frank H. Williams.

STATES: Harold Boulware, Oliver Hill, Louis L. Redding, Spottswood W. Robinson III.

"Before lawyers can win cases there have to be clients willing to stand up for their rights. The American blacks who proved willing to fight segregation and discrimination were organized for the most part by the National Association for the Advancement of Colored People (NAACP) in an environment hostile to change in the kind of justice afforded blacks."

(Greenberg, *Crusaders In The Courts*, 1994)

Capturing Forgotten Moments ... *Continued from page 1*

These stories and others connected to the case lend meaning to the human dimension of *Brown v. Board of Education* National Historic Site. This collection of oral histories will remind visitors to the site that Topeka did not act alone in trying to bring about desegregation.

In Summerton, South Carolina, school enrollment attempts were not as courteously conducted as those remembered in Topeka. One of the major participants in the South Carolina school litigation, Reverend J.A. Delaine, left his residence in the middle of the night in fear of his life. His house was later burned to the ground. Defendant Harry Briggs, the first named plaintiff in the case that would later be called *Briggs v. Elliott*, found he could no longer get his cotton ginned anywhere in the country. He eventually left South Carolina seeking work in Florida. Annie Gipson not only lost her job as a maid in a local motel, but her husband was forced off land his family had sharecropped for more than 50 years. In recounting those events of more

than 40 years ago, Gipson said that if the segregated schools had had desks she never would have signed her name to the petition demanding better educational facilities. The price she and her family had to pay was high.

Those interviewed in Virginia spoke of events just before graduation in May 1949 when students attending Robert Morton High School in Farmville, Virginia, walked out of class and went on strike for two weeks. Student leaders protested the use of poorly constructed shacks for classroom space. Attorney Oliver Hill of Richmond, remembers receiving a telephone call from one of the student leaders in Farmville asking for help.

A Howard Law School classmate of Thurgood Marshall, Hill had handled numerous civil rights cases for the Virginia NAACP. He was also familiar with the over-

crowded conditions in the segregated schools in Prince Edward County, the school district where Farmville was located. He doubted that the strike would have much effect on current district policies, but he did agree to meet with the students and assess the feasibility of filing a lawsuit in Farmville. His legal assistance combined with the determined efforts of community residents resulted in the school desegregation case *Davis et al v. Prince Edward County School Board*. This lawsuit was reviewed by the U. S. Supreme Court along with the *Brown* case.

Interviews conducted in Topeka contained recollections of September 1951 when a local NAACP plan was put into action. A total of 13 African American parents tried

to enroll their grade school children into neighborhood schools that fall. Lucinda Todd with her daughter Nancy and Lena Carper with her daughter Catherine attempted to enroll in Randolph Elementary School. Sadie Emmanuel tried to enroll her young son James in Lafayette Elementary. Oliver Brown took his eldest daughter Linda and tried to enroll



Briggs v. Elliott plaintiffs and supporters. Seated (left to right): Celestine Parsons, Roland Pearson (child), Plummie Parsons, Jessie Pearson (child), Sarah Ragin, Mary Oliver, Esther Fludd, Annie Gipson, Maxine Gipson, Rebecca Richburg and James Bennett. Standing (left to right): Gilbert Henry, Joseph Lemmon, Bennie Parsons, Charlotte Pearson, Edward Ragin, Rev. E.E. Richburg, Eliza Briggs, Rev. J.A. Delaine, Harry Briggs Jr., Catherine Briggs, Rev. J.W. Seals, Harry Briggs Sr., B.B. DeLaine, Levi Pearson, Robert Georgia Sr., Hammitt Pearson, Lee Richardson and Jesse Pearson.

her in Sumner Elementary School, a few blocks from their home. Throughout Topeka the story was similar. Though these young children lived within four to five blocks of a white school, they were bussed 20 to 30 blocks to one of the four segregated black schools.

The children remember their experience that fall, of waiting in hallways for their parents to return from hushed conversations with school officials. Linda remembers waiting outside the principal's office while her father was inside speaking to Frank Wilson, the principal of Sumner.

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*Commemorating the 45th Anniversary
of Brown v. Board of Education*

She doesn't remember much else about that day except that afterward, walking home, her father held her tightly by the hand, hurrying her with his long strides.

Jr Frank Wilson remembers Oliver Brown arriving at his office that September morning. He remembers him as a quite, dignified looking man. He wasn't surprised by the arrival of this reticent man with his eldest daughter standing shyly next to him. Wilson had been expecting such a visit since early summer when he was warned by Topeka School Superintendent, Kenneth McFarland, that the local NAACP would attempt to enroll African-American children in schools reserved for whites. Wilson, like principals of white schools across Topeka encountering African-American parents that fall, politely received Oliver Brown and listened to his request to enroll his daughter and politely refused to allow it. African-American children had their own schools to attend.

Under the existing state statutes, Topeka was within its rights to segregate elementary schools on the basis of race. The scene played out just as Superintendent McFarland had planned. The threat of legal action did not deter McFarland in his mission to keep segregation status quo in Topeka. He had been named as a defendant before in lawsuits. McFarland, and Wilson, too, knew they probably would later be named as defendants in the

Brown v. Board of Education case. This did not alter their course of action. For one reason or another, each in his own way felt responsible to maintain segregation.

More than 100 interviews have been completed to date with individuals ranging from former plaintiffs and attorneys to NAACP officials and those who served as expert witnesses. Key interviews include: Robert Carter, formerly an attorney with the NAACP Legal Defense Fund (LDF) who assisted local attorneys in arguing the Kansas case; Jack Greenberg, former LDF attorney who went on to head that organization; and finally, Paul

Wilson who argued for Kansas and those not wanting to dismantle segregated schools.

Because of the complex stories that comprise *Brown*, an oral history advisory committee was established. The committee's purpose was to identify individuals to

be interviewed and issues to be addressed in the interviews. The committee was composed of long-time (over thirty years) residents of the area and representatives of the three cooperating agencies.

The personal sacrifices made by these and many other African Americans of Summerton, South Carolina and Farmville, Virginia are as essential to the *Brown* story as the events that happened in Topeka. Through oral history interviews, these forgotten moments in civil rights history provide an engrossing way to make history come alive.

"If the segregated schools had had desks, I never would have signed my name to the petition demanding better educational facilities."
... Annie Gipson



In *A Time to Lose*, attorney Paul Wilson wrote about representing the State of Kansas in *Brown v. Board of Education*.

The Living Memory of the Past

Orally-communicated history that vividly details information that is brought to light when people speak from memory of times past is increasingly recognized as a valuable research tool. As historians investigate their subjects and move from the documentary to the physical evidence, they still may be faced with gaps in the record. It is at this time that oral history, the living memory of the past, becomes important and useful.

The vast amount of this information never gets recorded and the documentary record is left incomplete. Human beings simply never take the time or have the opportunity to record their feelings and preserve the memory of their role in history. Historians such as Alex Haley and Studs Turkel have shown that oral history techniques can and should be used to complement the documentary evidence. Indeed, oral history provides another view of history by preserving the memory, emotions, and feelings of the participants of the history event in question.

This technique is extremely important in preserving and recording the memory of the modern Civil Rights movement as illustrated by Jean Van Delinder's article. As a result of these efforts, the stories of the people who lived the events associated with the *Brown v. Board of Education* cases will be preserved and remembered by subsequent generations of Americans.

—Harry A. Butowsky

The U.S. Supreme Court decision of May 17 1954, *Oliver Brown et al v. The Board of Education of Topeka, (Kansas)*, is thought to be one of the most significant events in the history of this country, yet it remains largely misunderstood. Prior to 1990 few attempts had been made to commemorate and interpret this history through properties associated with legal or personal aspects of the case.

The first effort to identify sites that contributed to *Brown* began in 1985 when Justice Warren Burger, former Chief Justice of the United States Supreme Court, called upon the National Park Service (NPS) to conduct a survey of properties associated with the U.S. Constitution. The resulting document entitled a *Constitutional Theme Study* was published by the National Park Service in 1987 to coincide with the anniversary of the Constitution. To prepare this study, the author Dr. Harry Butowsky, historian with the National Park Service, convened a panel of constitutional scholars and canvassed federal judges to develop a list of constitutional milestones.

Brown v. Board of Education consistently appeared among their top three choices. His research entailed identifying properties associated with these milestones. For his selection of sites in *Brown*, he focused on the residence of Oliver Brown (no longer standing) and Sumner Elementary, the school that had denied Mr. Brown the right to enroll his daughter solely on the basis of their race.

At that point Dr. Butowsky was unaware of the social history behind

the legal history of the *Brown* case. Examinations of this case seldom deal with the complex constitutional issues or the history that underscores the sacrifice and self-determination present in the African American community. Even fewer accounts of the *Brown* decision provide information about the specifics of the Topeka case, the local leadership of the National Association for the Advancement of Colored People (NAACP), the attorneys, the 13 plaintiffs representing their 20 children, and unknown individuals whose lives were

In many instances the schools for African American children were substandard facilities with out-of-date textbooks and often no basic school supplies. What was not in question was the dedication and qualifications of the African American teachers and principals assigned to these schools.

In response to numerous unsuccessful attempts to ensure equal opportunities for all children, African American community leaders and organizations across the

country stepped up efforts to change the educational system. In the fall of 1950 members of the Topeka, Kansas Chapter of the NAACP agreed again to challenge the "separate but equal" doctrine governing public education. The strategy was conceived by the chapter president and the law firm of Scott, Scott, Scott & Jackson. Their plan involved enlisting the support of fellow NAACP members and

personal friends as plaintiffs in what would be a class action suit filed against the Board of Education of Topeka Public Schools.

A group of 13 parents agreed to participate on behalf of their 20 children. Individuals in the Topeka case moved ahead, unaware that at the same time legal counsel for the NAACP headquarters in New York, represented plaintiffs in school cases from Delaware, Virginia, South Carolina and Washington DC. When the Topeka case made its way to the United States Supreme Court it was

The Preservation Effort

1990 - 2003

**Brown v. Board of Education
Historic Site**



Monroe Elementary School, Topeka, is now a national historic site.

changed by these events.

History books make little mention that *Brown* is comprised of five cases from the states of Delaware, Kansas, South Carolina, Virginia, and the District of Columbia. As early as 1849 with a case in Boston Massachusetts, African American parents challenged the system of education in the United States which mandated separate schools for their children based solely on race.

In Kansas alone there were eleven school integration cases dating from 1881 to 1949, prior to *Brown* in 1954.



Buchanan School

combined with these other NAACP cases. The combined cases became known as *Oliver L. Brown et al. v. The Board of Education of Topeka*.

Children of the Topeka plaintiffs had to travel past and away from nearby schools to attend schools designated for African Americans. In the other cases outside of Kansas, African American children attended poor facilities without basic school equipment and supplies.

On May 17, 1954, at 12:52 p.m., the United States Supreme Court issued a unanimous decision stating that it was unconstitutional, violating the 14th Amendment, to separate children in public schools for no other reason than their race. Prior to 1954, Topeka, Kansas operated a dual system of public education at several levels.

First, only elementary schools were racially segregated. Second, junior high and senior high schools were integrated for academics but not for extra-curricular activity. Topeka operated four elementary schools for African American children, compared with eighteen elementary schools for white children.

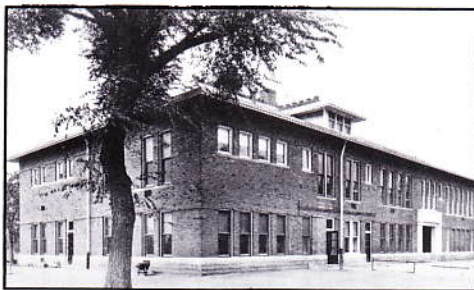
The plaintiffs in the Topeka case were parents with children in the four African American elementary schools (Buchanan, McKinley, Monroe and Washington). Only three school buildings remain standing today. However, two have been purchased and converted for other uses.

In 1990, one of these buildings, Monroe elementary, was to be auctioned by its owner. At that point, the Brown Foundation interceded. The unwanted property had to be

saved. The owner was unaware of its historic significance as a site associated with the *Brown* decision. Monroe Elementary School, just as its counter parts, was built solely to function as a segregated school for African American children. It had existed on the same site in various incarnations since 1868. The present structure was completed in 1927.

In the 1950's two of the plaintiffs, Oliver Brown and Vivian Seales, had children attending Monroe Elementary during the court proceedings in the *Brown* case.

The sudden availability of this property and the sense of urgency created by the proposed auction presented a supreme challenge for the Brown Foundation. The Foundation was in its infancy, having been



McKinley School

established in 1988. The fiscal resources to acquire and rehabilitate the old schoolhouse were well beyond reach. Consequently, Foundation leadership launched a letter writing campaign. Letters were sent to wealthy individuals across the country asking for assistance. The idea was to have someone purchase the property and agree to sell it to the Brown Foundation over a period of time. When that concept failed to generate interest, local land speculators were contacted, again without success.

Finally an idea was formulated based on the significance of *Brown v. Board of Education* in United States history. With that in mind, letters were sent to the Kansas delegation to the U.S. Congress. Several members

responded immediately offering suggestions of grant opportunities and organizations to contact.

The turning point of this preservation effort came when the Foundation was put in touch with the Afro-American Institute for Historic Preservation and Community Development in Washington, DC. At that same time, contact was made with the author of the *NPS Constitutional Theme Study*, suggesting that there had been an oversight in his research. It was further suggested that he return to Topeka to research the formerly segregated African American schools for inclusion in his original document.

During a meeting with the author of the study, he suggested that because of the historic significance of the old school building and its endangered status, the National Park Service might be interested in preserving it. He spoke of this property becoming a National Historic Site, a national park. To make that happen, the Foundation would have to enlist the support and cooperation of both the U.S. Congress and the U.S. Department of Interior.

Realizing the need for local support, the foundation developed a community task force for the purpose of brainstorming, letter writing, and moral support. Contacts were made with *Brown* plaintiffs, Monroe Neighborhood Improvement Association, civic and social clubs, local preservation groups, the city economic development office and the mayor's office, the local university, sororities and fraternities, state historical society, and the state legislature.



Washington School

Brown Site Preservation Timeline 1990-2003

By September of 1990, a task force was in place and the work to convert the vacant schoolhouse into a National Park began. A synopsis of the process follows:

Fall 1990

Letter writing campaign to ask Kansas congressional delegation to direct the National Park Service to conduct a study to determine the suitability and feasibility of using the Monroe School building as a national park. Met with Under Secretary of Interior, Director of National Park Service, and Associate Director for Cultural Resources to update them on local efforts and the need for funding once the study was requested. The Foundation located funds, via the congressional delegation, to have NPS conduct the study.

Spring 1991

NPS study team arrived in Topeka for initial assessment. Foundation submitted a position paper to study team, outlining preference for how the site might develop.



Cheryl Brown Henderson gets support for the *Brown* site from Senator Robert Dole.

Summer 1991

NPS study team conducted on-site research to complete suitability and feasibility document.

Fall 1991

Foundation requested clarification and assistance from the Kansas State Historical Society on the application process for National Historic Landmark (NHL) designation. Brown Foundation made presentation before the NPS Advisory Board to request NHL designation. Received official notification of NHL designation in November 1991. Held local news conference to provide a forum for the Assistant Secretary of Interior for Fish, Wildlife, and Parks to make the announcement in person. At that time the position was held by the former Governor of Kansas. Met with officials of the Trust for Public Lands to interest them in an option on the property to ensure the owner of a sale.

Spring 1992

The Foundation developed draft legislation to be used as a concept for establishing a national park at the site of Monroe Elementary School. Met with congressional delegation staff and assistant to the Secretary for Fish, Wildlife, and Parks. Foundation convened ceremony to dedicate the Monroe Elementary School as a National Historic Landmark.

Summer 1992

Congressional delegation staff and Foundation prepare legislation to be introduced in the U.S. Senate in July. Senate hearing convened in August. Brown Foundation provides testimony. Senate legislation passes.



Sam Browback, member of Congress, celebrates the success of *Brown* historic site law with Cheryl Brown Henderson.

Fall 1992

Legislation introduced in the House. Special hearing convened. Brown Foundation provides testimony. Legislation passed in the House. President George Bush signs the *Brown v. Board of Education* National Historic Site Act of 1992 into law on Oct. 26, 1992.

Spring 1993

NPS appoints a planning team including representation from the Brown Foundation. Planning team begins work on site. Brown Foundation enters into a Cooperative Agreement with the National Park Service for planning and programs.

1994-2003

Planning process continues to determine management, historic interpretation and building usage. Projected opening for the *Brown v. Board of Education* National Historic Site in late 2003. The old schoolhouse will be used as a visitor's center with interpretive exhibits, special programs and a resource library.



Photo credits: Kansas Collection, University of Kansas Libraries, The Kansas State Historical Society, Library of Congress, Topeka Public Schools, Joseph A. De Laine, Charles H. Houston, Social Law Library, Boston.

*Commemorating the 45th Anniversary
of Brown v. Board of Education*

USING THE INTERNET

Is the Internet available at your school or public library?

Here are some sites that may help you get started finding information on the Internet:

•www.watson.org/~lisa/blackhistory/
Civil rights, school integration

•www.nationalcenter.inter.net/brown.html
Full text of *Brown* decision.

•www.digisys.net/users/hootie/brown/
The Interactive Experience

•www.constitutioncenter.org/brownbib.html
Refers to *Simple Justice* by Richard Kluger.

•www.richmond.edu/~ed344/97/sixties/brown.html
Brown v. Board and civil rights movement.

•usgovinfo.miningco.com/library/weekly/aa021999.htm?rf=dp&COB=home
We Shall Overcome - Park Service Tour of civil rights movement

Information including the above *html* sites, can be found on the Internet by using a multi-search engine (try dogpile.com) and typing in *Brown v. Board*. If you find something you like, be sure to click on "Add Bookmark," so you can return to the same site.



BOOK NOOK

Crusaders in the Courts How a Dedicated Band of Lawyers Fought for the Civil Rights Revolution

Jack Greenberg, Esq.
Basic Books 1994



This book is considered to be both a powerful personal memoir and a definitive history of an organization that helped change American society, the NAACP Legal Defense and Educational Fund (LDF).

Together with Thurgood Marshall and a cadre of brilliant young attorneys, Greenberg became a key figure at the LDF. He joined the staff in 1949 and remained with the organization for 35 years, succeeding Marshall as Director-Counsel in 1961 with Marshall's appointment to the U.S. Supreme Court. During Greenberg's tenure, most cases associated with civil rights history -- school integration, equal employment, fair housing,

voter registration -- were argued with his participation or litigated under his direction.

More than a history of the litigation that made the LDF so important, the book offers unique insights into the organizations strategies, courtroom techniques, values, and personal relationships. It is filled with stories of his experiences, including the cases in *Brown v. Board of Education*, representing Martin Luther King, Jr. in Birmingham to win his right to march from Selma to Montgomery; the integration of the University of Mississippi, and the University of Alabama when George Wallace stood in the school house door. *Crusaders in the Courts* is an epic saga of a critical period in American history. Jack Greenberg joined the faculty of Columbia Law School in 1984. He served as Dean of the College from 1989 to 1993 and remains a member of the LDF Board of Directors.

A Time to Lose: Representing Kansas in *Brown v. Board of Education*

Paul Wilson, Distinguished
Professor Emeritus of Law
University Press of Kansas
1995



Throughout his narrative, Wilson recalls events known only to *Brown* insiders. He recreates the world of Kansas in the 1950s and places the case in the context of those times and politics. The author provides important information about the state's ambivalent defense.

Reflections from his perspective reveal that the Kansas case and his own role were different from the other cases joined with *Brown* in significant ways. After all, this U.S. Supreme Court decision was not based on one case, but five cases combined under the heading of *Brown*. These cases were *Briggs v.*

Elliott from South Carolina, *Bolling v. Sharpe* from the District of Columbia, *Belton v. Gebhart* (Bulah v. Gebhart) from Delaware, *Brown v. The Board of Education of Topeka*, Kansas, and *Davis v. County School Board of Prince Edward County*, Virginia. Although the basic contention in these cases was the same -- the injustice resulting from racial segregation in public schools -- the Kansas case permitted a challenge of segregation per se. Did it in fact violate the 14th Amendment?

Wilson suggests some fundamental lessons about his experience, the evolution of race relations, and the lawyer's role in the judicial resolution of social conflict. He concludes, "Any scheme that classifies people on the basis of race or color and withholds from one class benefits that are enjoyed by others is indefensible. As a lawyer, I spoke in defense of a law that permitted such a result."

It was no coincidence that Homer A. Plessy, a 34-year-old middle class "colored man," purchased a ticket on the train from New Orleans to Covington, Louisiana on June 7, 1892. Nor was it unexpected that he would be arrested when he attempted to board the "whites only" rail car. The purchase and the arrest were part of a well-orchestrated, on-going attack on Louisiana's Separate Car Act of 1890 by New Orleans blacks with the sympathetic cooperation of The East Louisiana Railway Company, which enforced the states's new discriminatory law with reluctance.

Homer Plessy was a perfect candidate for this legal test. He was so totally acceptable in manners, demeanor and attire that the denial of accommodations pointed to the absurdity of the law. Because he was light in complexion, "the mixture of colored blood (hardly) discernible," it also emphasized the arbitrariness of the law's enforcement.

For four years the case of *Plessy v. Ferguson* worked its way through the court system so that by 1896 it reached the U.S. Supreme Court. After five weeks of argument, the Court handed down its decision which upheld the Louisiana law and declared separate accommodations based on race constitutional. The separation of the races by law, the court argued, did not compromise equality before the law.

The *Plessy* decision was a milestone in American legal history and a turning point in America's constitutional law. The highest court in the land set the constitutional foundation for the "separate but equal" and racially discriminatory Jim Crow legislation that became the hallmark of southern law and northern custom for the next half century. But this

decision neither initiated the "separate but equal" principle in law nor settled the question of legal racial segregation. It was based on pre-Civil War legal precedent and became the foil for the most far-reaching court

when he took 5-year-old Sarah to be enrolled. In fact, a state law instructed that students should attend the school nearest their home. The statute further allowed any student unlawfully excluded from public school to

recover damages and when Sarah was refused admittance, Roberts sued the city of Boston under this provision. School authorities argued that special provisions had been made for "colored" students. Since Boston maintained racially segregated schools, that Sarah passed five white schools on her way to the black schools, the school board contended was of no consequence.

Roberts retained the talented attorney, abolitionist, and later United States Senator Charles Sumner. Sumner worked with Robert Morris, a young black abolitionist and activist lawyer from Boston. This formidable legal team broke new ground in their argument before the court. Invoking "the great principle" embodied in the Constitution of Massachusetts, they asserted that all persons, regardless of race or color, stand as equals before the law. More specifically, they argued racially segregated schools and equality of education are mutually exclusive, that segregation is unconstitutional because it infringes on the civil rights of individuals, and that it is socially and emotionally

damaging to both black and white students.

"The school is the little world where the child is trained for the larger world of life...and therefore it must cherish and develop the virtues and the sympathies needed in the larger world." The inculcation of caste distinction among citizens, they argued, precluded "those relations of Equality which the constitution and Laws promise to all."

Roberts, Plessy and Brown

The Long, Hard Struggle Against Segregation



Robert Morris, attorney for the plaintiffs, along with Charles Sumner, in *Roberts V. City of Boston*, 1849

decision of the 20th century. In his statement of the court's majority opinion in *Plessy*, Justice Henry Billings Brown cited an 1849 decision rendered in his home state of Massachusetts by state Chief Justice Lemuel Shaw in the case of *Roberts v. The City of Boston*.

That case resulted from a black printer's determination to enroll his daughter at her neighborhood school. Benjamin Roberts violated no law

Chief Justice Shaw, unmoved by impassioned oratory about freedom and equality, decided the case on narrow legal groups, ruling in favor of the right of the school committee to set education policy as it saw fit. The Boston School Committee strongly asserted that right, as the court decision went against Roberts, establishing the principle of segregated education in law in Massachusetts.

Thus, the foundation for the Supreme Court decision in the *Plessy* case was laid. Even more specifically, Sumner and Morris provided the argument which, augmented by modern social science, became that of Thurgood Marshall and the NAACP legal team in the *Brown* decision in the 1950s. Like the *Brown* case, Roberts had been a school desegregation case and, like both *Brown* and *Plessy*, the arguments in Roberts had implications far beyond the specifics of the case.

Together, these three landmark decisions tell the history of the struggle for racial justice in America. Each was the result of planning, organization, and action from the African-American community. Each was the undertaking of a strong, progressive interracial alliance which facilitated the legal effort. It was no accident that Roberts was represented by Sumner, an abolitionist who had provided his legal services to fugitive slaves and the anti-slavery movement, and Robert Morris, a black abolitionist lawyer. These two crusaders against slavery had worked together before and would continue as allies for freedom throughout the Civil War period.

Although these efforts were almost always a product of joint community action, they did not necessarily imply a single African American opinion. Boston blacks had struggled for decades to provide their children with quality education which, in the late 18th century, meant withdrawing them from the city schools. The Boston School Committee argued during the *Roberts* trial that early in the city's history, African Americans had petitioned the city to provide for a separate school. Blacks had done so, because teachers and white students in the integrated schools frequently mistreated black students and subjected them to public ridicule. The private African School had been established in 1798 and a generous trust bequeathed to the city in 1815 by a white philanthropist to provide adequate funds for the continued support of a

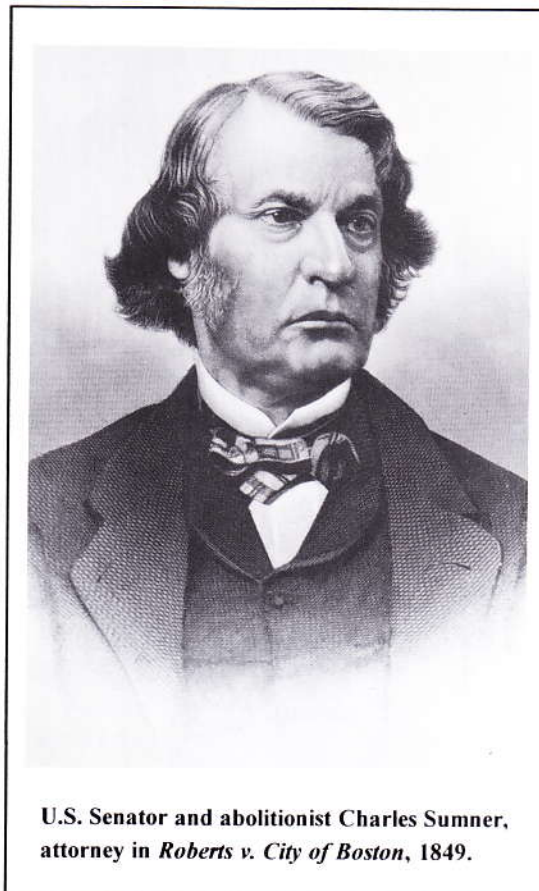
separate black school, renamed the Smith School. Some black Bostonians felt strongly that separate schools were necessary to educate their children without the degrading experiences of racial prejudice and did not support the efforts to desegregate Boston schools.

Yet, as the physical facilities badly deteriorated at the all-black Smith School, it became clear to many that separated education in the Boston schools was not likely to be quality education for black students. A century before sociologist Kenneth Clark helped NAACP lawyers make the case before the Supreme Court in the *Brown* case, many black Bostonians understood that separation of the races had harmful long-term consequences for the psychological well-being of their children.

William Cooper Nell, a community leader in the campaign to integrate Boston schools, related the personal experience that motivated him to become an activist. In 1829, he and two other students were judged the three brightest students of the Negro school. However, they were not awarded the Benjamin Franklin Medal given to white students by the city school board and were not invited to the dinner given in honor of the winners. To satisfy his curiosity, Nell managed to attend the dinner as a waiter. During dinner, Massachusetts Lieutenant Governor Armstrong privately told him he deserved to be at the dinner alongside the white students. Nell was from an economically successful family, the son of a prominent Boston community leader. Nonetheless, the feeling that he could "never be anything but a nigger anyhow" plagued his sense of self-worth.

Segregated education, he believed, was implicated in his diminished self-image.

Although debate over the benefits of integrated education versus black-controlled education continued among Boston blacks, Nell and other parents organized an effective boycott of Boston's black schools. Black activists and white abolitionists challenged segregation policies through petitions, non-violent protests and bills to outlaw Jim Crow regulations. Repeated petitions to the Boston School Committee throughout the 1840s decried the injustice of exclusive schools "solely on account of color" which deprived blacks of the equal privileges and advantages to which they were entitled as citizens.



U.S. Senator and abolitionist Charles Sumner, attorney in *Roberts v. City of Boston*, 1849.

When Roberts brought suit against the city, he did so as part of a series of efforts and strategies by the community to desegregate Boston schools. The interracial legal team of Sumner and Morris was merely presenting before the court arguments and valid grievances black residents had expressed before. The most eloquent desegregation argument revealed the detriments of segregation policies in the lives of Nell and many other African American children in Boston and elsewhere.

"Nursed in the sentiment of caste, receiving it with the earliest food of knowledge, [whites] are unable to eradicate it from their natures... A despised class, blasted by prejudice and shut out from various opportunities, [blacks] feel this proscription from the Common Schools as a peculiar brand ... It adds to their discouragements." That the Massachusetts court was not sympathetic, black people understood only too well from personal experience.

Justice Shaw, ignoring the moral issues involved, narrowly focused on the question of whether separation by race in public schools violated Robert's right to political, social, and civil equality. When he reasoned that separation of the races does not perpetuate class distinction since existing prejudice in society "is not created by law, and probably cannot be changed by law," he foreshadowed the racial philosophy basic to 20th-century segregationist law.

Echoing this philosophy, the 1896 *Plessy* decision reflected a dominant perception among whites that the races were somehow fundamentally different, a difference immutable by law. "Legislation is powerless to eradicate racial instincts or to abolish distinctions based upon physical differences," said the court. "If one race be inferior to the other socially, the Constitution of the United States cannot put them upon the same plane." Further, the court flatly rejected *Plessy's* claim, as the Massachusetts court had rejected Robert's contention, that separation marked blacks with "a badge of inferiority." "If this be so," wrote Justice Brown, it is only "because the colored race chooses to put that construction upon it."

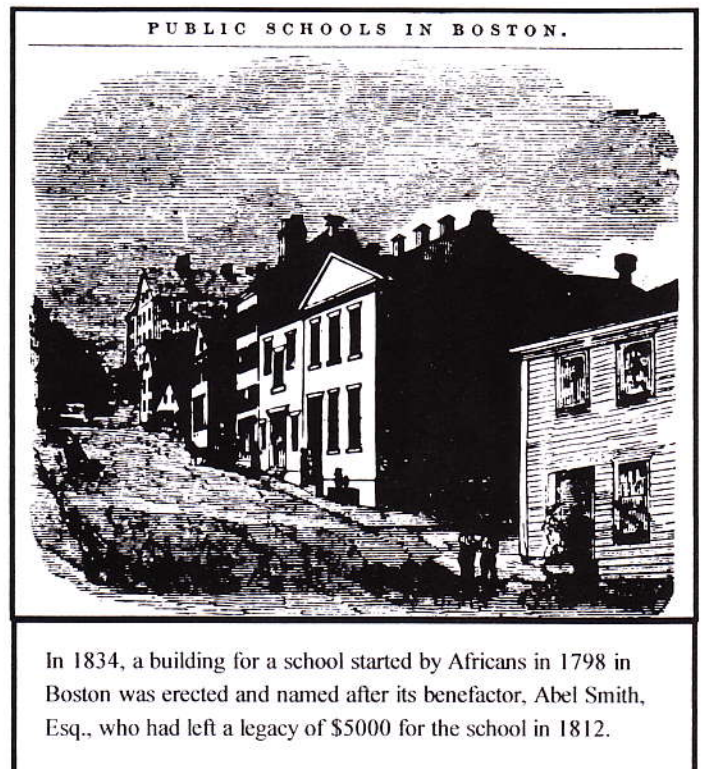
These were the assumptions of popular culture of the 19th century which remained strong into the mid-20th century. It would not be until social attitudes, fostered and supported by social scientific evidence, began to reconsider the wisdom of racial hierarchy that the "separate but equal" doctrine would be reevaluated by the U.S. Supreme Court in 1954 with the *Brown v. Board of Education* case. By mid-century, the harmful effects of racial segregation were scientifically documented and could no longer be easily dismissed. During the 1920s, mainstream social scientific thought had moved from the assumption that mental inferiority and anti-social behavior are racially inherited, to the understanding that environment and social process are the primary determinants of intellect.

Gunner Myrdal's *An American Dilemma* (1944), a widely acclaimed critique of American racism which detailed the cycle of social prejudice and economic deprivation, was one source used by Marshall to urge the

Court to reconsider *Plessy*. Further strengthening the argument against segregation was President Truman's report in 1947 from the Committee on Civil Rights which also cited social scientific evidence and called for an end to legally-enforced segregation. The time was right for the Supreme Court to declare that "in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal." Yet, this declaration was a long time in the making and it was the result of more than a century of determined struggle.

Like the overnight sensation who has worked a lifetime for that distinction, the Civil Rights Movement which many Americans assume to have begun in 1954 was a long time coming, with the sacrifice and support of thousands, black and white, committed to racial equality and justice long before *Brown* and even *Plessy*. The *Plessy* decision, the *Brown* decision, and all those who struggle for racial justice stand on the shoulders of Benjamin Roberts, a man who simply wanted a good education for his 5-year-old daughter.

by James Oliver Horton, Professor of American Studies and History at George Washington University and Director of the African-American Communities Project at the Smithsonian Institution and Michele Gates Moresi, a research fellow at the African-American Communities Project at the Smithsonian Institution and a Ph.D. candidate at George Washington University.



Commemorating the 45th Anniversary
of *Brown v. Board of Education*

Desegregating the American Mind:

Creating a Shared Vision

*A National
Symposium*

for Safe and Inclusive Schools

*May 16-18,
1999*

Topeka Capital Plaza Hotel

Topeka, Kansas

Forty-five years ago our country began to dismantle a long-standing dual educational system which permitted racially segregated public schools. With the stroke of a pen on May 17, 1954, the U.S. Supreme Court ruled that such educational systems were unconstitutional. This symposium offers a perspective on how effectively our schools have dismantled "separate" systems and whether they have created educational environments that are safe and provide curriculum inclusive of racial and ethnic groups.

Speakers

Jesse Jackson Jr., Member of Congress - Noted political and civil rights activist, formerly president of Keep Hope Alive Foundation. In 1995 he was elected to the United States House of Representatives from the 2nd District of Illinois. He holds a Juris Doctorate Degree.

Eric Vernberg, PhD - Associate Professor in the Clinical Child Psychology program at the University of Kansas. He designs and implements violence prevention programs in schools and directs a school-based program for children with multiple emotional impairments.

Barbara Ballard, PhD. - A current member of the Kansas House of Representatives, she was elected to the legislature in 1992 after serving two terms on the school board of the Lawrence Public Schools. She is Assistant Chancellor, Student Affairs, at the University of Kansas.

Rev. Delmer White - Pastor of Antioch Missionary Baptist Church in Topeka, Kansas and chaplain with the Topeka Police Department. He holds a Master of Divinity Degree and is CEO of Antioch Family Life Center.

Iantha Gantt-Wright - Cultural diversity program manager for the National Parks and Conservation Association. A key leader in the passage of HR 1635, The National Underground Railroad Network to Freedom Act, she organized the first forum to examine issues of race and diversity and our national parks.

Carl Boyd - Founder and president of the Art of Positive Teaching, an educational consulting firm, and host of *The Generation Rap*, a weekly call-in radio show in Kansas City. In 1997, he was a keynote speaker for the China/U.S. Conference on Education in Beijing.

James Boyer, PhD - Retired Professor of Curriculum and American Ethnic Studies, who served 25 years in Teacher Education at Kansas State University. His most recent book is *Transforming the Curriculum for Multicultural Understandings: A Practitioner's Handbook*.

*Commemorating the 45th Anniversary
of Brown v. Board of Education*

Sponsored by the **Brown Foundation and Washburn University**, the symposium will begin with registration on Sunday afternoon and a banquet at 7 p.m. Sessions will continue through Tuesday morning. For registration information, write the **Brown Foundation, P.O. Box 4862, Topeka KS, 66604** or call **785-235-3939**.

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