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The Brown Decision. Fact or Myth in Connecticut?

Curriculum Unit 92.01.09
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The major objective of my unit is to explore the history of school desegregation in the United States. My unit is intended for middle school students in an eighth grade Social Studies class. The unit could also be used in an American history course in high school. In light of the Rodney King incident, racial tension and anger has been heightened in our schools. There are parts of my unit that could add fuel to this fire. If my unit is used properly, students will be able to see the whole picture and realize that progress has been made in the area of race relations in the United States. In addition, students will realize their role in seeing that progress in race relations continues. For if students start to blindly hate individuals based on their skin color they will be no better than the racists that are discussed in my unit.

The Brown decisions can not be studied in isolation. There are many reasons for me taking this position in my unit. To begin with, there were many factors which contributed to the historic Supreme Court desegregation order handed down on Monday, May 17, 1954. There were individuals other than Thurgood Marshall who played an influential part in fighting segregation in the United States that need to be recognized for their contributions. This in no way attempts to minimize the crucial role played by Marshall. In addition, the makeup of the Supreme Court, legislation, the Howard University Law School, and precedent setting cases involving segregation contributed greatly to the Brown decisions.

These factors can not be ignored if students are truly to understand the significance of Brown and its ramifications on their lives.

One of the first things that is taught in school and that American students learn is the 'Pledge of Allegiance.' It doesn't take a woman or a person of color long to realize that the last few words of the pledge "with liberty and justice for all" does not apply to them. How could a government founded on democratic principles allow segregated schools to exist? In order for students to understand this dichotomy we must examine how the early African American was viewed by American society.

The first Blacks to arrive in Jamestown in 1619 were slaves. The slaves were perceived as property and less than human. There were several factors which contributed to this belief. The dark skin of the African slave being in stark contrast with the early white settlers added to the belief that the slave was inferior. The color black has always carried with it many negative connotations. The African's body odor, made unbearable no doubt due to the fact that the slave spent most of his voyage to America shackled and held below deck in cramped quarters without any hygienic articles or supplies, was offensive to his captors. Finally, the language

barrier led the slave's master to perceive the slave as child-like and ignorant with a need to be supervised.

Slave codes developed in the colonies. They were different from colony to colony where they existed but they did share three things in common. First, the color line was well defined and any amount of Negro blood established the race of the person as a Negro. Second, the status of the offspring followed the mother, meaning a child of a free father and a slave mother was a slave. Third, slaves had few legal rights in the slave codes that were enacted.

Some of the slave code laws that existed are as follows:

1. testimony of slaves was inadmissible in litigation involving whites
2. slaves could not make contracts
3. slaves could not own property
4. even if attacked, slaves could not strike a white person
5. slaves could not leave their master's property without permission
6. slaves could not assemble without a white person present
7. slaves were not permitted to marry
8. slaves could not own firearms
9. slaves could not be taught to read, write, transmit, or possess inflammatory material

After exploring with my students how the early African-American was viewed and the Slave Codes, I will have them read Mark Twain's 1894 novel, *Pudd'nhead Wilson*. This story deals with two children, a white child and a very fair-skinned black child, switched at birth. The black child growing up espousing white racist ideas while the white child grows up to be the model "bootlicking" servant. After which, we will discuss how racist attitudes develop and how one's attitude can be influenced by one's environment.

Slavery came to an end with the culmination of the Civil War and the passing of the Thirteenth Amendment. Soon after the Southern states replaced their Slave Codes with the Black Codes. The belief that the Negro was still inferior persisted, thus it was no surprise that these Black Codes evolved. The Codes were intended to keep the south's cheap supply of labor, the recently emancipated slave. Some examples of the Black Codes enacted in the South are as follows:

1. Most black codes permitted the Negro to sue and testify in court in cases only involving Negroes.
2. Negroes were allowed to own only certain types of property.

3. Marriages were made legal.
4. Negroes could not bear arms.
5. The Louisiana Code required all Negroes to sign labor contracts for the year during the first ten days of January.
6. In Mississippi the term vagrant applied to such varied categories of persons as jugglers, "common night-walkers," visitors to prostitution and gaming houses. A vagrant who could not pay his fine was hired out..

Northerners were outraged with the enactment of these southern Black Codes. They reacted by passing Radical Reconstruction legislation and the Fourteenth Amendment (1868). Reconstruction did away with the Black Codes. Section 1 of the Fourteenth Amendment would play a major role in many civil rights cases involving the American black. This section stated that:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Nowadays this section of the Fourteenth Amendment is viewed as protecting all the basic civil rights of an American citizen. But this was not always the case for the American Negro. Segregation was allowed to exist in face of this amendment, even in the Washington, D.C. public schools which were under the direct control of Congress. In fact, the framers of the Fourteenth Amendment didn't feel that this amendment even protected the black man's basic civil right to vote, so the Fifteenth Amendment was adopted in 1870 to guarantee this right. The controversy over which rights were protected under the Fourteenth Amendment would surface again in the 1896 Plessy case.

An event would occur in 1876 that would lead to the establishment of black code-like laws under a different name, Jim Crow. The presidential election of 1876 between Rutherford B. Hayes, governor of Ohio, and Samuel J. Tilden, governor of New York was riddled with corruption perpetrated by both parties. A compromise known as the Compromise of 1877 was reached which settled this election. Hayes in return for Southern Democratic support in verifying him as the winner in the 1876 presidential election would remove federal troops from the South and once again allow the Southern states to control their own destiny.

It would not be long after the Compromise of 1877 that the Southern states would begin to flex their muscles. The first order of business was to put the southern Negro back in his proper place. They would attempt to do this by establishing Jim Crow laws. The name "Jim Crow" originated from a minstrel routine known originally as "Jump Jim Crow." The author of this routine was Thomas Dartmouth, "Daddy Rice." This minstrel routine began being performed in 1828. The term "Jim Crow" came to be a derogatory epithet for the American Negro and a designation for their segregated life.

Florida enacted the first railway segregation act. Discrimination of this type had been practiced erratically in the South prior to 1877. Also, prior to this Negroes were forbidden to ride in first class train cars. In some coastal states races were allowed to mix in second class cars and smoking cars. Florida was followed by Mississippi then Texas in implementing this type of railway policy. The rationale for segregation or Jim Crow was the belief that the American Negro was an inferior human being whose only acceptable position in life in the United States was one of servitude. And as such, the African-American could not be allowed to associate with white America.

In 1869 during Radical Reconstruction a law was enacted in Louisiana forbidding public carriers to segregate its passengers. In 1877, the Supreme Court overturned this statute in *Hall v. De Cuir*. The Supreme Court asserted that this Louisiana statute interfered with Congress' right to regulate interstate commerce even though the Louisiana law limited its reach to places within the state. The Supreme Court stated that a white passenger boarding a segregated train outside of Louisiana would be forced to share his coach with colored passengers once in the state of Louisiana. The Court went on to say that if such a law is needed for the common good it must come from Congress. Yet, in 1888, when Mississippi passed legislation that was just the opposite requiring segregation on its railways the Supreme Court upheld this law in *Louisville, New Orleans and Texas Railway v. Mississippi*. The Court ignored its *Hall v. De Cuir* decision and stated that what Mississippi did within its own border was its own business.

Now as well as during several other parts of my unit I am going to stress to my students that when injustices were perpetrated against their ancestors as described above, the fight for justice did not stop. Even when the highest court in the land which is supposed to have the last word in legal matters delivered an unjust decision, fight for justice continued. Students need to understand that the Supreme Court, like our Constitution, is a living entity which is subject to change with the times. As my students will see, the Supreme Court would eventually change its stance on segregation.

The first serious challenge to Jim Crow laws would begin on June 7, 1892, when a fair-skinned Negro named Homer Adolf Plessy would attempt to ride in a train car in Louisiana reserved for whites. Plessy was seven-eighths Caucasian, making it very difficult to determine he was a Negro. This confrontation was prearranged. The railway companies were not in favor of separate train coaches for the different races due to the financial burden incurred by such a policy.

The Louisiana Jim Crow law which instigated this incident was entitled, "An Act to Promote the Comfort of Passengers." The act stated that:

"all railway companies carrying passengers in their coaches in this State, shall provide equal but separate accommodations for the whites, and colored, races by providing two or more passenger coaches for each passenger train, or by dividing the passenger coaches by a partition so as to secure separate accommodations."

The fine for violating this act was twenty-five dollars or not more than twenty days in jail. This law would be difficult to enforce due to racial mixture of Blacks, French, Indian, and Anglo-Saxon in Louisiana. Plessy being a prime example, for Homer's race would have been difficult if not impossible to be ascertained if the confrontation had not been planned.

Nearly four years would pass before the Supreme Court handed down its historic decision in 1896 legitimizing the "separate but equal" doctrine. The opinion was written by a native of Massachusetts named Henry Billings Brown. Six of Brown's fellow Justices concurred with his opinion. The focal point of the Plessy case was whether or not he was being denied his privileges, immunities, and equal protection of the law guaranteed by

the Fourteenth Amendment.

According to Justice Brown, it was not clear what rights were covered by the Fourteenth Amendment. Brown reached this conclusion based on the Supreme Court ruling in the Slaughterhouse Case in 1873. In 1869 the Louisiana legislature gave a twenty-five year exclusive butchering contract to a single corporation. A lawsuit was brought by a group of butchers claiming their rights under the first section of the Fourteenth Amendment had been violated by this exclusive contract.

In a 5-4 decision in the Slaughterhouse Case, the opinion written by Justice Samuel Miller, the first section of the Fourteenth Amendment was interpreted as recognizing “the distinction between citizenship of the United States and the citizenship of a State, which are distinct from each other . . .” Miller came to this erroneous conclusion by breaking these two sentences of the 14th Amendment, “are citizens of the United States and of the state wherein they reside,” apart and not reading them in sequence. Thus, Miller saw the Fourteenth Amendment as creating dual citizenship for all Americans. The Slaughterhouse ruling failed to outline which rights states were forbidden to abridge under the 14th Amendment.

Justice Brown in his opinion attempted to clarify which rights were protected when he asserted:

“The object of the (14th) amendment was undoubtedly to enforce the absolute equality of the two races before the law, but in the nature of things it could not have been intended to abolish distinctions based upon color, or to enforce social, as distinguished from political equality, or a commingling of the two races upon terms unsatisfactory to either.”

In other words, Justice Brown interpreted the Fourteenth Amendment as guaranteeing political equality rather than social equality for the American Negro.

Brown did not believe that Louisiana railway segregation act implied that the Louisiana Negro was inferior to his white counterpart. For Justice Brown stated that:

“We consider the underlying fallacy of the plaintiff’s argument to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority. If this be so, it is not by reason of anything found in the act, but solely because the colored races chooses to put that construction upon it.”

Justice Brown also held to the principle that generally it was an accepted belief that state legislatures had the power to legally separate the races in places they would be brought into contact. Brown cited a series of cases as support for his position.

The first ruling Brown cited was that of the Supreme Judicial Court of Massachusetts in *Roberts v. Boston* in 1849. In this case Chief Justice Lemuel Shaw upheld Boston’s practice of providing separate educational facilities for whites and blacks asserting that Boston’s policy of school segregation was for the good of both races. Shaw failed to demonstrate how this policy was based on sound reasoning. Brown neglected to mention in citing the Robert’s case that six years later the Massachusetts legislature prohibited school segregation.

Justice Brown went on to cite seven other state cases as precedent. There are several cases in particular that demonstrates his flawed reasoning. One case Brown cited was the California case of *Ward v. Flood* (1874). The point in question in this case involved whether Negro students might be excluded from public schools when alternative schools were not provided. The California court said no. This case did not address whether segregated schools were permissible. Another case cited by Brown was the Kentucky case of *Dawson v. Lee*

(1884). The issue in this case involved whether tax revenues from whites could be used solely for white schools and from blacks for black schools. The Kentucky court ruled that inferior schools would be the result for Negro students, and thus unconstitutional.

There are two other cases that were cited by Brown that need to be briefly discussed. They were both Supreme Court decisions involving railway segregation acts. In the first case, *Hall v. De Cuir* (1877), the Supreme Court struck down the 1869 Louisiana statute prohibiting segregation on public carriers because it interfered with Congress' right to regulate interstate commerce. In the second case cited, *Louisville, New Orleans and Texas Railway v. Mississippi* (1890), the Supreme Court upheld the Mississippi statute requiring segregated passenger cars. In neither case opinion was reference made to the rights and privileges guaranteed against state abridgment by the Fourteenth Amendment. Yet, Justice Brown used these cases to support his position that the issue on railway segregation had long been settled by the Supreme Court. In my opinion, this was not the case. These Supreme Court decisions demonstrate how the Court could shape the law to reflect the racist attitudes of the time. For if the 1869 Louisiana statute interfered with Congress' right to regulate interstate commerce, then so did the 1888 Mississippi statute, but such was not the finding of the Supreme Court.

The key to the Plessy case according to Justice Brown and six of his brethren was whether the Louisiana statute was reasonable. Brown asserted that:

“So far, then, as a conflict with the Fourteenth Amendment is concerned, the case reduces itself to the question whether the statute of Louisiana is a reasonable regulation, and with respect to this there must necessarily be a large discretion on the part of the legislature. In determining the question of reasonableness it is at liberty to act with reference to the established usages, customs and traditions of the people, and with a view to the promotion of their comfort, and the preservation of the public peace and good order. Gauged by this standard, we cannot say that a law which authorizes or even requires the separation of the two races in public conveyances is unreasonable . . .”

As a result, the Supreme Court concluded that racially separate facilities, so long as they were equal, could legally be ordained by the state; segregation was not discrimination.

It should be noted that one Supreme Court Justice abstained from participating in the Plessy case and that was Justice David Brewer. Why Justice Brewer did not participate is not known because a Justice does not have to explain why they choose not to participate in a case. If Brewer had participated he would have probably sided with Brown based on the fact that he wrote the opinion upholding Mississippi's 1888 segregation railway act.

There was a dissent registered in the Plessy case. The dissent was written by Justice John Marshall Harlan. The heart of his dissent is found in the following excerpt:

“The white race deems itself to be the dominant race in this country. And so it is, in prestige, in achievements, in education, in wealth and in power . . . But in view of the Constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here. Our Constitution is color-blind, and neither knows nor tolerates classes among its citizens. In respect of civil rights, all citizens are equal before the law. The humblest is the peer of the most powerful. The law regards man as man, and takes no account of his surroundings or of his color when his civil rights as guaranteed by the supreme law of the land are involved.”

It would seem that Justice Harlan with his Plessy dissent was against segregation. Yet in 1899 when the first case involving segregated schools reached the Supreme Court in *Cummings v. Richmond County Board of*

Education, Harlan would write the opinion of the Supreme Court upholding Georgia's right to create separate schools for its white and colored students. It is amazing that the same person who wrote the eloquent dissent in Plessy could deliver such a decision in the Cummings case. There was no dissent in the Cummings ruling.

The Plessy decision was to have a profound and lasting effect on American society. It legitimized the racial attitudes which stressed the inferiority of the American Negro which resulted once again in the subrogation of the African-American. Jim Crow would not be limited to transportation but would affect every facet of American life. "Separate but equal" became an accepted way of life in the United States. The American Negro knew from the onset, however, that separate facilities were never equal. It is ironic that the people involved in the struggle for Negro equality would use the "separate but equal" doctrine to chip away at segregation until it was finally eradicated with the historic Brown decision of 1954.

There is another Supreme Court decision involving segregation that deserves discussion. There was a small biracial college in Kentucky founded in 1859. The Kentucky legislature found the racial mixture at Berea College offensive and as a result passed a statute stating that an institution may teach members of both races at the same time as long as it was done separately in classes at least twenty-five miles apart. The Supreme Court of Kentucky upheld the law but found the distance of twenty-five miles to be a little excessive. On the appeal to the Supreme Court, Kentucky stated in its brief, that if progress, advancement and civilization was to go forward in the twentieth century, it would have to be left in the hands of the Anglo-Saxon-Caucasian race. Berea countered by stating that the purpose of the college was to promote the cause of Christ and that racial differences played no role in the college's purpose. Berea felt that its purpose was protected by the Constitution. The Supreme Court disagreed in a seven-to-two decision upholding the Kentucky law. The Court went on to say that the college's charter was not being impaired because the college was still allowed to teach both races but just not together. School segregation was now widespread throughout the South with the sanction of the three Supreme Court decisions of Plessy, Cummings, and Berea.

At this point, I intend to have my students conduct interviews with people who have lived under Jim Crow. It's hard for people, especially students, who have not lived in a legally sanctioned segregated society to comprehend the harshness and mental anguish suffered by those who were forced to live under such a system. Hopefully these interviews will help students to realize that Jim Crow laws had a real affect on people's lives. These interviews would include people of both races.

The idea of racial segregation would also be buttressed by the press and the academic communities of the day. It was not unusual to see such terms as "mammy," "darky," "High Yaller" and "nigger" across the headlines of newspapers and leading magazines of the time.

One member of the academic community who contributed to the racial hysteria of the day was Charles Carolls with his work, *The Negro, a Beast or In the Image of God*, in 1900. Another was a professor from Yale by the name of William Graham Sumner in his work *Folkways* in 1907. Sumner felt that it wasn't possible to legislate social change and that it was foolish to try to sway the white Southerner from his beliefs with legislation. Professor Sumner also felt that the Negro had to learn to accept his inferiority because not to would be futile.

Ulrich Bonnell Phillips also contributed to the belief that the African American was inferior with this work, *Americas Negro Slaves*. This work was highly regarded due to his exhaustive research. Phillips in his work depicted the institution of slavery as a kindly and therapeutic practice for the child-like slave. Adding to the academic community's stance on the inferiority of the Negro was the financially successful motion picture, "The Birth of a Nation." This film portrayed the Reconstruction Era in which the newly freed slave and the carpetbaggers were looting, raping, and destroying the South. The film concludes with the birth of the Ku Klux

Klan and their saving of the South and its way of life. It should be noted that even though blacks were portrayed in "The Birth of a Nation," there were no black actors in this motion picture.

With Jim Crow flourishing with the sanction of the Supreme Court and scholars of high repute supporting and espousing racist beliefs, who was speaking up on behalf of the American Negro's rights? One individual at the forefront was Booker T. Washington. Washington was recognized and accepted by most white Americans of the time as a leader of the Negro race. Booker T. Washington appealed to so many white Americans of his time because of the speech he delivered at the Atlanta Cotton States and International Exposition on September 18, 1895. In this speech, Washington outlined his accommodating views. Washington asserted that the American Negro needed to develop vocational skills that would allow him to become a productive member of society. Washington also put forth the idea that the Negro needed to work and earn the respect of white America before equality should be granted to black Americans. White America concurred with Washington's views and it was via Booker T. Washington that many funds and programs were funneled into the African-American community. In some circles, Washington was referred to as "King Washington."

Booker T. Washington's accommodation views were perceived by many Negro scholars then and now as Washington "selling his race out." I don't entirely agree with this line of thought. First, if Washington had come out in favor of racial equality in the early 1900s, I doubt if this view would have been accepted in America with the racist environment that existed at this time. Also, I don't think the financial support would have been forthcoming with such a belief. Another point that needs to be considered was how violence was tolerated against ethnic groups that were outside of mainstream America. For instance, by the 1900s the Indian population had been greatly reduced with the expansion of the United States. In addition, the lynchings of Negroes went unpunished and the many attempts to get anti-lynching laws had failed. I don't think it would have been wise to agitate white America at this time in face of how the American Indian was treated and how Negro lynchings were sanctioned. As much as I find Booker T. Washington's accommodation views appalling, they may have been necessary in order to secure the survival of the American Negro in a violent racist atmosphere.

Many notable black leaders and white Americans interested in securing the American Negro his civil rights disagreed with Booker T. Washington's accommodation approach. They believed it was not effective and that the Negro needed to develop more than vocational skills. American blacks needed to acquire the same skills and exposure to higher education that were afforded to white America. Among these people were the well-educated Negro W.E.B. Du Bois and William Monroe Trotter editor of Boston's Negro paper, the *Guardian* .

On a July evening in 1905, Monroe Trotter and several of his colleagues were determined to confront Booker T. Washington at a Boston church where he was making an address. The evening ended with Trotter and several others being carted off to jail. This incident outraged W.E.B. Du Bois to the point where he sent out a call for a meeting to be held on the Canadian side of the river near Niagara Falls. Twenty-nine men attended this meeting, which would later be known as the Niagara Movement. Some of the demands that the Niagara Movement formulated were as follows: (1) unrestricted right to vote for Negroes, (2) end of every kind of segregation, (3) equality of economic opportunity, (4) the right to higher education for the talented, (5) equal justice in the courts, (6) an end to trade union discrimination.

Shortly after the Niagara Movement annual meeting in 1908, a series of events would occur that would lead to the founding of the National Association for the Advancement of Colored People. First, there was a serious race riot in Springfield, Illinois. By the time the riot ended, two Negroes had been lynched, four white men had been murdered and there were numerous injuries. In addition, more than 2,000 blacks were forced to leave

Springfield in fear for their lives which was a major objective of the white leaders of the riot. Next, William English Walling, a wealthy Southerner whose family once were slave owners, wrote an article about the Springfield riot. This article was read by a white social worker by the name of Mary White Ovington. Miss Ovington contacted and met William Walling and they proceeded to pursue Walling's idea of a national biracial organization of concerned whites and intelligent blacks. Ovington and Wallings then invited Oswald Garrison Villard, president of the *New York Evening Post* and a grandson of William Lloyd Garrison the renown abolitionist, to join their group. A call went out to 1,000 people to attend the first National Negro Conference to be held on May 31, 1909 at Cooper Union in New York. Three hundred people attended this conference.

Of course William Trotter and W.E.B. Du Bois were in attendance. Trotter and other militant blacks were however suspicious of this conference because it was a white-run show. Among some of the notable whites who attended this conference was John Dewey, a noted Columbia economist, who felt that environmental factors rather than an inherent inferiority held the Negro back. Dewey also believed that every human being given a fair equal opportunity to develop could make a worthwhile contribution to society. Also in attendance were Jane Adams, a noted social worker of Chicago, the writers William Dean Howells and Lincoln Steffens, Rabbi Stephen S. Wise, presidents of Holyoke College and Western Reserve University. This conference would later lead to the foundation of the most important civil rights organization in the United States in 1910, the National Association for the Advancement of Colored People (NAACP).

William English Walling became the first chairman of the NAACP executive committee. Moorfield Storey, a Boston lawyer, became the national president. He would represent the NAACP in several litigations later on to involving segregation. Storey was also a member of the Niagara Movement. W.E.B. Du Bois took the title of Director of Publicity and Research. Du Bois created the "Crisis" the NAACP magazine which served as a forum for Du Bois, who was its editor, to express his and the organization's viewpoint. The name "Crisis" originated from James Russell Lowell's poem "The Present Crisis."

Now that the NAACP was established the question arose concerning how it would proceed in the fight for Negro equality. It would not be long before the strategy the NAACP would employ to fight discrimination in the United States would emerge. The incident which would give birth to the NAACP strategy for gaining equal rights for the American Negro involved a black farmhand from South Carolina named Pink Franklin. In 1910, Franklin left the property of a South Carolina landowner after receiving an advance on his wages. The South Carolina Supreme Court and the Supreme Court had ruled that detaining a man against his will under these circumstances constituted peonage and violated the Thirteenth and the Fourteenth Amendments. Yet and still the landowner still swore out an arrest warrant. When two police officers attempted to arrest Franklin, trouble broke out. The officers approached Franklin's home prior to daylight without identifying themselves. As a result, everyone but Franklin's son was shot. One officer later died for which Pink Franklin received the death penalty. This was the first case in which the NAACP became involved. The NAACP intervened by first asking Booker T. Washington to appeal to the South Carolina governor for clemency for Franklin, which failed. However, the NAACP's nine years of repeated efforts finally paid off when Pink Franklin was freed. The importance of the Franklin incident was that members of the NAACP realized that the best way to secure equal rights for the Negro would be in the legal arena, the courts. In order to accomplish this the NAACP needed to develop a legal arm.

In 1911, when the NAACP opened a branch in Harlem, it also established a legal vigilance committee to publicize and prosecute cases of injustices involving black Americans. The Spingarn brothers, Joel Elias and Arthur, would play a major role on this committee. Joel would resign his position at Columbia as professor of literature to devote all of his energy to the NAACP. His brother Arthur, an attorney, would help litigate cases

against the police involving brutality against Negroes. Arthur was also successful in getting Palisades Amusement Park to admit blacks. Eventually, the legal work would be turned over to the national office.

The national NAACP leadership was interested in pursuing “class action” suits. The first “class action” suit the NAACP became involved in was *Guinn v. United States*. The state of Oklahoma amended its constitution to include a “grandfather clause” which said no one linearly descended from a voter qualified as of 1866 could be denied the vote even if he were illiterate. Seeing as the Negro did not receive the right to vote from Reconstruction measures until after 1866, the Oklahoma Negro was effectively denied his right to vote. When Guinn and Beal, election officials, prevented a group of Negroes from voting under the “grandfather clause,” they were brought into a United States District Court and accused of violating the 1871 federal act passed to enforce the Fifteenth Amendment. The pair of Oklahoma election officials were found guilty of violating this voting right amendment. The case was then appealed to the Supreme Court.

At the onset, *Guinn v. United States* did not look very good for the Negro. There were several factors which contributed to this view point. One being, the Chief Justice presiding over this case was Edward Douglas White. White was a member of the Supreme Court which asserted that separate but equal legislation was constitutional. Also, Woodrow Wilson’s administration was not known for its concern for the American Negro, so there was some doubt to how vigorous the United States would argue this case. The doubt wasn’t lessened when a son of a legislator who fought the ratification of the Fifteenth Amendment was chosen to argue on behalf of the United States. The Solicitor General who would argue the case was John W. Davis. All these factors combined didn’t seem to guarantee the American Negro a positive outcome in this litigation.

Despite all of these factors, *Guinn v. United States* had a positive outcome for the American Negro. The NAACP would enter the case as an amicus curiae, a friend of the court, admitted by consent of both parties and the court itself. The brief would be submitted by Moorfield Storey, the NAACP president. John W. Davis presented a very persuasive argument detailing how the Oklahoma voting amendment violated the Fifteenth Amendment. The Supreme Court unanimously voted to overturn the Oklahoma statute. Chief Justice White delivered the opinion. This victory was short lived because Oklahoma passed an election law which was even more vile in nature than the one overturned. This new election law gave permanent registration to anyone who voted in 1914 under the invalidated law and granted others, mostly Negroes, a twelve day period to register or be disenfranchised for life. This new election law would be left unchallenged for twenty-two years.

The next major case the national NAACP became involved in was *Buchanan v. Warley* (1917). The NAACP was challenging whether a Louisville statute regarding residential segregation was constitutional. The law was titled an “ordinance to prevent conflict and ill-feeling between white and colored races . . . to preserve the public peace and promote the general welfare by making reasonable provisions requiring . . . the use of separate blocks for residences, places of abode, and places of assembly by white and colored people respectively.” The law asserted that if a block had a majority of white residents, no blacks could move in, and if the block had a majority of black residents, whites were excluded. Louisville felt that the Fourteenth Amendment was not violated because an equal amount of restrictions were put on both races. The trial judge agreed and found the law constitutional and threw the case out. The Kentucky appeals court cited its own ruling in the Berea College case and restated that a state was entitled to use its police power to prevent racial mixing.

When the case *Buchanan v. Warley* (1915), reached the Supreme Court the NAACP was represented once again by its president Moorfield Storey. After seven months of deliberations, the Supreme Court ruled unanimously that the Louisville law restricting residency was illegal. The Court stated that the Louisville law

violated the Civil Rights Act of 1870 which asserted:

“All Citizens of the United States shall have the same right in every state and territory as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold and convey real and personal property.”

The NAACP had been successful in wiping away its first Jim Crow law. Like the Oklahoma “grandfather clause” victory, this victory, would also be short-lived.

In 1926, the Supreme Court would hand down a ruling in the *Corrigan v. Barkley* case that would nullify the NAACP Buchanan victory. This case involved two residents of Washington, D.C., Irene Corrigan and John J. Buckley who had entered into a private covenant with thirty of their neighbors restricting the sale, lease, or occupancy of their properties to whites only. Mrs. Corrigan decided to sell her home to a black doctor, after which Mr. Buckley sued. The Supreme Court unanimously approved of the racially restrictive covenant citing the holding in the Civil Rights Cases of 1883 that private invasion of individual rights was not prohibited by the Fourteenth Amendment. The Court went on to state that there was nothing in the Constitution which prohibited private parties “from entering into contracts respecting the control and disposition of their own property.” The Corrigan decision led the Federal Housing Administration to insist on Jim Crow arrangements as a condition for granting mortgage insurance.

On the heels of the NAACP Corrigan setback would be a Supreme Court decision that would directly address the idea of school segregation, the ironic part is that it did not involve any Negroes. The case was *Gong Lum v. Rice* (1927). The case originated in the Rosedale School District in Bolivar County, Mississippi when Martha Lum, of Chinese ancestry, was denied entry into an all white school. Martha’s father sued claiming that his daughter wasn’t colored and thus should be exempted from the Mississippi law requiring her to go to a Negro school. The Court unanimously ruled against the Lum’s claim to exemption from the laws of Mississippi, in fact the court said that such laws were none of their business. Chief Justice Taft stated: “Were this a new question, it would call for very full argument and consideration; but we think that it is the same question that has been many times decided to be within the constitutional power of the state legislature to settle, without intervention of the federal courts.” School segregation was now officially sanctioned by the Supreme Court.

If one was to closely examine the argument put forth by the Court in support of its position in *Gong Lum*, it is clear that the Court erred in its decision. First, Mr. Lum wasn’t challenging the legality of segregated schools, he just wanted his daughter not classified as colored and thus forced to attend a Negro school. Plus, the Supreme Court had never ruled on a school segregation case before in its history. So Chief Justice Taft’s claim that this question about school segregation “has been many times decided,” was incorrect. In addition, the other cases cited by the Chief Justice used the *Roberts v. Boston* case as precedent without taking into consideration that the Roberts case pre-dated the Fourteenth Amendment. Not only was the Roberts case used as precedent in these state cases Taft cited, but also the Plessy case which he cited. The Taft opinion was also influenced by Justice Harlan’s opinion in the *Cummings v. Richmond County Board of Education* from which he cited, “The right and power of the state to regulate the method of providing for the education of its youth at public expense is clear.” The legality of school segregation was not the question pleaded in the Cummings case more so than it was the question of the quality of the facilities being provided. With its *Gong Lum* decision the Supreme Court once again gave its blessing to Jim Crow education. I think that the point should be stressed to students that even though the NAACP suffered major setbacks with the Corrigan and *Gong Lum* decisions, the struggle for black equality continued.

The new leadership and future direction of the NAACP in the civil rights struggle for the American Negro would be greatly influenced by three factors. The first being Howard University and its law school. Before Mordaci W.

Johnson became Howard's president in 1926, it was a university in name only. Howard University's major funding source was Congress. The year Johnson arrived Congress had appropriated \$216,000 for operating expenses and a total of \$900,000 for buildings. By the time Johnson left Howard University thirty years later, the university would be receiving 7 million dollars from Congress for operating expenditures and nearly 42 million dollars for building and capital expenditures.

Many of the black leaders in the civil rights movement would pass through the doors of Howard University. It became a center for black militancy. Mordaci Johnson was responsible for raising faculty salaries and academic standards, implementing a stricter admission policy, and spearheading the drive to get Howard's graduate and professional schools accredited. Of all the notable changes made by Johnson to improve Howard University, there was none more important in my opinion than his appointment of Charles Houston to head the law school.

Mr. Houston's primary objective was to make Howard University Law School a credible law school. In order to do this, Houston instituted some drastic changes at the law school. One decision which must have caused him some personal anguish was the closing of Howard's law night law school, for his father had earned his law degree at the night law school while working during the day as a government clerk. Houston cleaned house and brought in top flight young black legal scholars like B. William Hasties, an Amherst and Harvard Law graduate, who would later go on to the federal bench. Another professor added to the faculty was Leon A. Ranson who had graduated first in his class at Ohio State University Law School. The Howard law school faculty was also enriched when a young black Texas attorney named James Madeson Nabrit, Jr., a Northwestern Law School graduate, became a part of the faculty. Nabrit would eventually succeed Mordaci Johnson as president of Howard. The Howard Law School would be responsible for turning out students like Thurgood Marshall and Oliver Hill who would play instrumental roles in several major segregation cases. Moorfield Storey due to age, stepped down as head counsel to the NAACP. He was replaced by Arthur Spingarn who was aided greatly by the Howard law school.

The future direction of the NAACP legal strategy would be greatly influenced by the American Fund for Public Service and the Margold Report. The American Fund for Public Service was created by Charles Garland, an undergraduate at Harvard, who refused to accept his inheritance from his father, a Boston millionaire. Charles instead donated some \$800,000 dollars to establish a foundation to support liberal and radical causes. The fund later became known as the Garland Fund.

The Garland Fund was administered by a group of liberal lawyers, writers, politicians, and other activists. This committee included Weldon Johnson, general secretary of the NAACP, Roger N. Baldwin, founder of the American Civil Liberties Union, Morris L. Enst, an attorney, Lewis S. Gannett, a literary critic, and Norman Thomas, a socialist. The committee recommended that the Garland Fund finance a campaign to help the American Negro receive his constitutional rights. To that end, the Fund gave the NAACP a grant of \$100,000 to conduct such a legal campaign, especially in the area of education. Along with the grant came a memorandum with a suggestive legal strategy. The strategy supported instigating and supporting law suits which would have four major objectives. They were as follows: (1) make the cost of a dual school system so prohibitive as to speed the abolishment of segregated schools, (2) serve as examples and give courage to Negroes to bring similar actions, (3) (cause) cases . . . (to) be appealed by (local) authorities, thus causing higher court decisions to cover wider territory, (4) focus as nothing else will public attention north and south upon the vicious discrimination. The Garland Fund memo also recommended that these lawsuits be instigated in the seven states with the lowest allocations to Negro schools, which were Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, and South Carolina.

The first \$8,000 of the Garland Fund grant to the NAACP was to be used to formulate the NAACP legal strategy in combating school segregation. The NAACP chose Nathan Ross Margold, a Jewish attorney, for this important task. The main premise of the Margold plan was to make school districts live up to the “separate but equal” doctrine. After Margold examined several dual school systems it was quite evident to him that the separate schools being provided were in no way or means equal. Thus, Margold concluded that such laws administering such a system were denying equal protection of law under the *Yick Wo v. Hopkins* ruling of 1886 and therefore were unconstitutional. Margold felt that his plan had two prongs of attack. One, that segregation laws could be voided because they did not safeguard the Negro schools against unequal expenditures. Second, Margold believed that in states where inequality and discrimination could be shown to be habitual and uniform that their school segregation laws could be outlawed because they were in violation of the equal protection of the law clause under the Fourteenth Amendment. Charles Houston agreed with the Margold Report and felt that the best area to implement its suggestions would begin graduate and professional school cases. Houston was of the belief that white segregationists were the most vulnerable and least likely to respond with anger in these types of cases.

The Margold strategy would get its first test in *Murray v. Maryland*. It should be noted that prior to the NAACP participation in this case, the fraternity Alpha Phi Alpha, the nation’s first black fraternity, had provided the funds to hire Belford V. Lawson, a young black attorney, to litigate this case. Donald Gaines Murray, a black man, was seeking admission to the University of Maryland Law School of which he was denied. Raymond A. Pearson, president of the university, refused to admit Murray and suggested that Murray attend Morgan College or an out-of-state institution to which the Maryland legislature had created partial scholarships. Charles Houston and Thurgood Marshall had replaced Belford Lawson and Murray’s attorneys by the time the case reached court. Houston and Marshall argued in principle that since the State of Maryland had not provided a comparable law school for blacks that Murray should be allowed to attend the white university. Judge Eugene O’Dunne agreed and issued a writ of mandamus ordering Pearson to admit Murray to the University of Maryland Law School. On appeal the decision was affirmed.

Another case in which the NAACP was successful by using its new strategy was in *Gaines v. Canada* (1935). Charles Houston was the chief counsel and had the case styled Missouri ex rel. *Gaines v. Canada*. Lloyd Lionel Gaines had graduated from Lincoln University in 1935 and wished to attend the University of Missouri Law School. The registrar, S. W. Canada, refused to admit Gaines and like Donald Murray, Gaines was told to take advantage of out-of-state scholarships or just wait until a Negro law school was built in Missouri. The Missouri court that first heard this case ruled against Gaines. However, on appeal to the Supreme Court, the University of Missouri was ordered to admit Gaines or build him a separate law school.

By mid-1938, Charles Houston’s health was failing and he was replaced as chief counsel to the NAACP by Thurgood Marshall. Marshall by this time had successfully won equal pay for teachers in nine Maryland counties and in the Norfolk, Virginia school system. In 1939, the NAACP would establish the Legal Defense and Educational Fund which would be headed by Thurgood Marshall. Finally, the NAACP would have a national legal arm responsible for litigating its civil rights cases. A major reason that The Fund, as the NAACP legal arm would come to be referred to as, was created to take advantage of new laws granting tax-exempt status to non-profit organizations that did not have lobbying as their principle purpose.

There are three cases in which “The Fund” became involved that need to be explored. The first case was *Sipuel v. Oklahoma State Board of Regents* (1948). Miss Ada Lois Sipuel who had recently graduated from the State College for Negroes in Langston, Oklahoma was refused admission to the University of Oklahoma Law School. It would seem that this case could have been quickly adjudicated by citing the Supreme Court ruling in

Gaines. But such was not the case, for the trial judge ruled against Sipuel. The Oklahoma Supreme Court affirmed the lower court's decision. However, on appeal, the Supreme Court cited its Gaines ruling and ruled that "Oklahoma had to provide Ada Sipuel with a legal education conforming with the equal protection clause of the 14th Amendment and provide it as soon as it does for other applicants of any other group."

The case was remanded back to the Oklahoma high court which ordered the university to admit Miss Sipuel to the white law school or to open up a separate one or close the white law school until a Negro law school was opened. The Oklahoma Board of Regents opted to set up a separate law school by roping off a small section of the state capital and assigning three law professors to meet her needs. Miss Sipuel found these arrangements unsatisfactory and petitioned the Supreme Court once again. Miss Sipuel was not the only one who found these arrangements distasteful because 1,000 students and professors of the university held a protest over these special arrangements. Unfortunately in February, 1948, the Supreme Court a 7-2 decision, voted to allow this separate law school to stand.

Another important case in which "The Fund" played an integral role was *Sweatt v. Painter* (1946). This case involved a black mailman, Heman Marion Sweatt, who wanted to attend the University of Texas. The university president at the time was Theophilus Shickel Painter. The district court in Travis County gave Texas six months to establish a law school at the colored Prairie View School, which in actuality was no more than a vocational school. The university complied with the court order by establishing the Prairie View Law School in Houston, Texas. The new law school consisted of a few rooms and two Negro lawyers. The Travis District Court accepted this make-shift law school. However, Mr. Sweatt did not, he appealed the district court's ruling which was then affirmed by the Court of Appeals. "The Fund" took this case to the Supreme Court.

The Texas state legislature tried to head off the appeal by appropriating three million dollars for a new Negro university, Texas State University. A \$100,000 was designated for the establishment of a law school. The Prairie View Law School was abandoned and a better one was created in downtown Austin which would have access to a library with 100,000 books. Once again a university's student body would protest such tactics. In mid-May, 1947, over 2,000 students showed up at a mass rally in support of Thurgood Marshall and the Sweatt appeal. In fact, an all white branch of the NAACP was formed on campus. The Supreme Court would eventually side with Sweatt when it handed down its decision in the *McLaurin v. Oklahoma* case (1948).

The *McLaurin v. Oklahoma* (1948) case involved a Negro named George W. McLaurin who was seeking admission to the University of Oklahoma doctoral program in education. Marshall and "The Fund" used a shortened process to get to the Supreme Court. Using the Judicial Reform Act of 1925, Marshall brought the McLaurin case before a three judge district court consisting of the Chief Justice of Appeals and two district judges. After which, the case could go directly to the Supreme Court. The special tribunal ruled as the Supreme Court had ruled in round one of the Sipuel case when they asserted that "the state is under the constitutional duty to provide the plaintiff with the education he seeks as soon as it does for applicants of any other group." Oklahoma allowed McLaurin to enter the university on a segregated basis. McLaurin was required to sit in an anteroom outside the classroom and was assigned a separate desk in the library as well as a separate table in the cafe at which he was scheduled to eat at different times from the white students. When McLaurin appealed these conditions to the tribunal, he was told, "A few hundred stigmata a day firm up a man's soul." By the time the McLaurin case had reached the Supreme Court the university had allowed McLaurin into the classroom but required him to sit in a section labeled "Reserved for Colored." The university also allowed McLaurin to sit on the main floor of the library but at a separate table. McLaurin was also allowed to eat at the same time as the white students but at a separate table which came to be known as the "Jug" by McLaurin and students who were sympathetic to his plight.

Thurgood Marshall employed the Margold strategy and asserted that segregation was illegal because as practiced, it never provided equality. The Supreme Court ruled in favor of McLaurin, it asserted the restrictions were unequal and they had to end. On the same day that the Supreme Court ruled on the McLaurin case, it also gave its ruling in the Sweatt case. The Court ordered Sweatt to be admitted to the University of Texas Law School because even with the improvements made at the new Texas Negro law school, great inequities still existed, some of which could not be measured by a dollar value.

Another decision was delivered on the same day as Sweatt and McLaurin that would extend the court's McLaurin ruling to include interstate transportation. The case was *Henderson v. United States*. This case involved Elmer Henderson, a black government employee, who in the course of his job had to take the Southern Railway from Washington, D.C. to Georgia. The railway company had set aside one table in the dining car for its Negro passengers but due to the number of Negroes on board this train, one table was not enough and Henderson was forced to go unfed and hungry. As a result, Henderson sued. Henderson was being represented by Belford Lawson who had been the initial lawyer in the *Murray v. Pearson* case. And once again it was the black fraternity, Alpha Phi Alpha, that was financially backing this case. This was one of the few cases that was litigated by someone that was not from "The Fund." Lawson chose to sue the United States government because the dining-car regulations had been approved by the Interstate Commerce Commission. Lawson charged that the Constitution and Interstate Commerce Act had been violated when Henderson was discriminated against based on his race. The Supreme Court ruled in favor of Henderson stating that special tables for black passengers were not permissible and that every ticketholder who was entitled to use the diner must be free to do so.

One of the most startling aspects of the Henderson case was the position that the government would take. In the lower courts the government lawyers successfully defended the segregated dining policy by citing Plessy. But when the Henderson case reached the Supreme Court, the government had a change of heart. With the approval of J. Howard McGarth, the Attorney General, Philip Perlman, the Solicitor General and Philip Elman, his assistant in civil rights, took a new stance in relation to the Plessy decision and the Henderson case. Perlman and Elman now argued that Plessy was wrong. This was the first time that an administration had taken this stance.

Many times when people hear *Brown v. Board of Education of Topeka Kansas*, they are unaware that the Supreme Court had heard the argument in five separate school segregation cases under one title. This was done because all five cases dealt with a similar issue, school segregation. One case which was heard under the Brown title was *Briggs v. Elliot*.

The driving force behind the Briggs case was Reverend Joseph Albert DeLaine, who also served as a principal and 8th grade teacher at a school in Jamison, South Carolina. While attending a summer session at Allen University in Columbia in 1947, DeLaine would hear a lecture from the Reverend James M. Hinton, the state president of the NAACP, that would change his life dramatically. Hinton asserted that a test case challenging South Carolina's discriminatory bus-transportation was needed. DeLaine responded to Hinton's message and found a litigant in Levi Pearson, a black farmer who had three children who were not being provided transportation. J. A. DeLaine was dismissed as a teacher for the role he played in this bus litigation. Levi Pearson also felt the white backlash when his crops rotted in the field because he could not get credit to lease machines to harvest his produce. The *Pearson v. County Board of Education* scheduled to be heard on June 9, 1948, would never be heard because the case was thrown out on June 7, 1948. School officials checking Pearson's tax receipts discovered that Pearson was paying his taxes to District No. 5, because his farm was located in this district, while his children were attending schools in Districts Nos. 22 and 26.

J. A. DeLaine would not be swayed by the Pearson setback. At a meeting held in Columbia, South Carolina in March of 1949, Thurgood Marshall told DeLaine and a Clarendon County group that if they could assemble a group of twenty plaintiffs to challenge Clarendon County's school segregation policy, he would bring a major test case there. DeLaine and his group found the twenty litigants. Heading the list was Harry Briggs, a black gas station attendant. The case was brought against School District No. 22 and its chairman of the board of trustees, R. W. Elliot. It would not be long before intimidation tactics were being applied to the Briggs family. Harry lost his job at the gas station and his wife Liza was fired as a motel maid. Similar tactics were used against the other litigants but to no avail. It seemed that the single motivating factor which made these blacks endure these hardships was the desire to get their children a better education. For they realized that without a good education their children's future would be limited. Thus, no sacrifices were too harsh to endure.

The *Briggs v. Elliot* case was scheduled to be heard before the District Court judge J. Waites Waring. At the pre-trial hearing, Thurgood Marshall was hesitant to make a full attack challenging South Carolina's segregation law. Marshall knew that if he challenged the constitutionality of the South Carolina's school segregation law, it would have to be heard before a special three judge tribunal as mandated by the Judiciary Act of 1937. Thurgood wanted to take his chances in Judge Waring's court where he felt confident he could easily demonstrate the inequities which existed in the Clarendon County's dual school system. While at the same time he could make an attack on South Carolina's school segregation law without making it the main focus of his argument. Judge Waring saw through Marshall's ploy and ordered him to re-submit his argument before the three judge court raising the issue of the constitutionality of South Carolina's school segregation law.

The Briggs case would be heard in front of J. Waites Waring who had proven to be sympathetic to the Negro cause by several rulings he made earlier in his District Court. One in which he ordered South Carolina to provide a law school for a Negro plaintiff or admit him to the white law school or close the white law school until a black one was established. The other Waring ruling struck down South Carolina's law legalizing white primary elections. Another judge to hear the Briggs case was George Bell Timmerman an advocate of white supremacy. The third judge hearing the case was chief judge of the Fourth Circuit of the Court of Appeals, John J. Parker. Twenty years earlier, the NAACP opposed Parker's nomination to the Supreme Court. Despite Parker's failure to become a Supreme Court Justice, he seemed not to hold any grudges. For he reversed the District Court in Virginia ruling supporting unequal salaries for Negro teachers and upheld Waring's ruling on the South Carolina white primary.

For the first time in the history of the NAACP litigation, the organization would present evidence to document the injury suffered by negro children in segregated schools. Thurgood Marshall at the insistence of Robert Carter, a young lawyer of the "Fund," used Dr. Kenneth Clark as a witness to prove this point. Clark using dolls of different color asked sixteen Clarendon County Negro students between six and nine years old, a series of questions on how they felt about the color of the dolls. One question asked of the students was "Which doll do you prefer?", ten said they preferred the white doll. Eleven said the black doll looked "bad" and nine of them said the white doll was the "nice" one. Bob Figg, the Clarendon attorney, failed to strongly cross examine or question Clark and his findings. Experts in the social science field would find Clark's Clarendon doll test flawed. They questioned whether the size of the group tested by Clark was large enough to substantiate Clark's findings. These social scientists also asserted that the terms "bad" and "nice" were subjective and never defined to the participants. Also, these experts believed that there were other factors which could have contributed to this feeling of inferiority expressed by these Negro students.

Figg tried to stop the Briggs case from being heard by admitting to the inequities which existed in Clarendon

County and offering a plan to correct them. The tribunal was neither swayed by Clark's findings or Figg's attempt to have the Brigg's case thrown out. The court ruled two to one in favor of Clarendon County with Judge Waring dissenting. This case would be appealed to the Supreme Court. South Carolina would be represented by John W. Davis who was referred to as "the lawyer's lawyer." The ironic part was that Davis, who made an unsuccessful bid for the presidency in 1924, was the U.S. Solicitor General who successfully argued in *Guinn v. United States* that the Oklahoma election law excluding blacks was unconstitutional, was now representing South Carolina in its attempt to exclude blacks from certain schools.

The suit *Brown v. Board of Education of Topeka, Kansas* was filed on February 28, 1951 on behalf of Linda Carol Brown by her father Oliver Brown. Linda had attended Monroe School, a Negro school in Topeka. However, in September, 1950, Oliver Brown unsuccessfully attempted to enroll Linda at Sumner School for whites. Linda's father was upset with the fact that Linda had to leave for school at 7:40 a.m. to arrive at school by 9 a.m. Linda had to walk several blocks to catch the bus which was often late, especially in the winter. The local attorneys representing the Brown's were Elisha Scott and his son John. Charles Bledsoe was the local NAACP lawyer. The Fund would send Bob Carter and Jack Greenberg, a young Jewish lawyer who would later head the Fund, to Topeka to direct the Brown case. The presiding judge was Walter August Huxman. Huxman asserted that the Supreme Court in its Sweatt and McLaurin decisions limited its rulings to graduate schools. This court then concluded its opinion by stating the following:

"We are accordingly of the view that the Plessy and Lum cases . . . have not been overruled and that they still presently are authority for the maintenance of a segregated school system in the lower grades."

The prayer for relief will be denied . . ."

During the trial, Bob Carter had arranged for many social scientists to testify to the harm inflicted on Negro students in a segregated school system. Attached to Huxman's opinion were nine "Findings of Facts" which echoed the testimony of the social scientists who testified, especially that of Louisa Holt of the Topeka Menninger Foundation. Finding VIII read:

"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."

The influence Finding VIII would have in the Supreme Court's final ruling in the Brown decision is quite evident when one reads the court's decision outlawing segregated schools.

Another set of cases that were argued under the umbrella of the Brown case in the Supreme Court came from the state of Delaware. These cases were argued for the NAACP by Jack Greenberg and Louis Redding, who in 1929 became the first Negro admitted to the Delaware bar. The presiding judge was Collins Seitz. Seitz earlier in *Parker v. University of Delaware* (1950) had ordered the state of Delaware to desegregate the University of Delaware at the undergraduate level. This was the first time a state financed institution was ordered to desegregate at the undergraduate level in the U.S. The two cases that came out of Delaware that were included in Brown were *Belton v. Gebhart* and *Bulah v. Gebhart*. Many of the issues were identical in both cases. In *Belton v. Gebhart*, Ethel Belton thought that it was unfair that Negro students had to be bused nine

miles north to Wilmington from Claymont to Howard High School with a population of 1300 while there was a combination grade school and high school in Claymont with a population of 400. In *Bulah v. Gebhart*, Sarah Bulah was disturbed by the fact that her daughter Shirley had to be driven two miles to a Negro school when a bus carrying white children passed by her door taking white students to an attractive school up the hill from her house. Francis Gebhart was the defendant in both cases. Gebhart happened to be the defendant because both cases were brought against the Delaware State Board of Education of which Gebhart was a member. The cases were originally filed in a U.S. District Court but Delaware's Attorney General Hyman Albert Young felt that the cases should be argued in a state court since a state law was involved. Redding initially wanted to argue before a three judge district court but acquiesced, and the cases were heard by Collins Seitz. Seitz ruled in favor of Bulah and Belton stating,

"It seems to me that when a plaintiff shows to the satisfaction of a court that there is an existing and continuing violation of the 'separate but equal' doctrine, he is entitled to have made available to him the state facilities which have been shown to be superior."

On August 28, 1952, the Delaware Supreme Court upheld the Seitz's decisions.

Davis v. County School Board of Prince Edward County, was another case heard under Brown. This case came from the state of Virginia. The NAACP lawyers were Spottswood W. Robinson III and Oliver W. Hill, both Howard Law School graduates. This case was sparked by a two week student strike at Robert H. Morton High School, a high school reserved for black students. The NAACP was representing 117 students from Morton, Dorothy Davis being first on the list, who wanted the Virginia school segregation law struck down. James Lindsay Almond Jr., who would later become the governor of Virginia, and Archibald Gerard Robertson, represented the Prince Edward school board. The three judge panel ruled in favor of the school board reasoning that segregation was a venerable custom of the people that harmed neither race and indeed benefitted the Negro.

The final case which was dealt with under Brown was *Bolling v. Sharpe*. This case involved a twelve year old boy from Washington, D.C., by the name of Spottswood Thomas Bolling. Bolling with the help of Gardner Bishop, a D.C. barber, attempted to enroll at the all white Philip Sousa Junior High. Spottswood was denied admission. The president of the school board was C. Melvin Sharpe. James M. Nabrit represented Bolling for the NAACP. Nabrit was not able to counter the Court of Appeals ruling in *Carr v. Corning* (1950) which found school segregation legal in D.C. As a result the court ruled in favor of Sharpe and the school board.

The first of the five cases that would be argued before the Supreme Court under the Brown title would be *Brown v. Board of Education of Topeka, Kansas*. Robert Carter would once again be representing Oliver Brown and his daughter. Carter advanced the argument that his client was being denied equal protection of the law because the act of segregation denied his client equal educational opportunities which were guaranteed by the 14th Amendment. The Topeka Board of Education was represented by the Assistant Attorney General of Kansas Paul Wilson. Wilson asserted that it was "shur sophistry" to suggest that Plessy and Gong Lum did not apply to Brown. This was the crux of his argument. The Assistant Attorney General also tried to counter Finding VIII which held that Negro students developed a sense of inferiority from attending segregated schools by insisting that this inferiority did not result from the objective components of the school system. Wilson also argued that Finding VIII didn't apply to the appellant in question because she was never tested by any of the social scientists cited in the findings.

The next case argued before the Supreme Court was *Briggs v. Elliot*. Thurgood Marshall, representing Briggs, contended that Robert Redfield's testimony in Sweatt that there is no difference in the learning potential of black and white students demonstrates that the South Carolina's school segregation law was without basis in

reason or law. Marshall then launched an attack on Judge Parker's belief that school segregation was a legislative matter and not a judicial matter by citing court opinions to the contrary and asserting that the 14th Amendment was passed to protect Negro rights from usurpation by states. John W. Davis represented the state of South Carolina. There were three main points to Davis' presentation. One, South Carolina was in the process of complying with the lower court mandate to improve its Negro school. Two, the right of a state to classify its public school pupils by race was not prohibited by the 14th Amendment. Third, the testimony by social scientists on behalf of the plaintiffs ". . . deals entirely with legislative policy, and does not tread on constitutional right." Davis also talked about how Dr. Clark's doll test was flawed due to the small number of Negro students tested. John Davis then went on to cite Plessy, Cummings, Berea College, and Gong Lum in support of his position that South Carolina's school segregation law was constitutional. The Justices were also reminded by Davis that the Gaines, Sipuel, Sweatt, and McLaurin cases were cases that were decided under the "separate but equal" doctrine.

Davis v. County School Board of Prince Edward County would be the next case heard by the Supreme Court. The NAACP lawyer in this case representing Dorothy Davis and her classmates was Spottswood Robinson. Robinson dwelt on the inequalities which existed and sought relief for his clients under the Gaines formula which would mean the Negro students would be entitled to admission to the white schools since the Negro facilities fell short of equality to the white ones. He also wanted the school officials in the future to be forbidden from assigning students by race because such a practice was based on racism. Justin Moore represented Prince Edward County. Moore put forth three arguments in the County's defense, they were: (1) the Board had planned a bond issue to finance a new Negro high school in Farmville (the legislature had not moved on this bond issue by the time this case had reached the Supreme Court), (2) there was no finding by the Virginia Court of harm to Negro students, (3) the basis of school segregation in Virginia was not based on prejudice but in the history and mores of the people of Virginia.

Bolling v. Sharpe was the next case on the Supreme Court docket to be heard. James Nabrit and George Edward Hayes represented Bolling. George Hayes proceeded first. Hayes stated that Congress had been mindful of segregation in D.C. public schools but Congress did not make segregation mandatory. It was D. C. school officials insisted Hayes who were guilty of violating the due process provision of the 5th Amendment by not allowing Negro students to attend unsegregated schools. James Nabrit then picked up the discussion by pointing out that the Civil War Amendments (13th, 14th, 15th) removed the power from the federal government to impose racial distinctions in dealing with its citizens. Nabrit also asserted that the Bill of Rights guaranteed a U. S. citizen his individual liberties and that it was the responsibility of the Supreme Court to prevent their infringement. Milton Korman represented the D.C. school board. Korman stated that the school board had received a mandate from Congress to run separate schools that predated the Civil War. Korman also contended that the segregated schools were not created out of prejudice but out of concern that Negro students receive an education in an atmosphere without hostility which would result if the schools were unsegregated.

The final cases to be heard by the Supreme Court were the Delaware cases of *Belton v. Gebhart* and *Bulah v. Gebhart*. Gebhart was represented by Delaware's Attorney General Albert Young. The state of Delaware felt that Chancellor Seitz had acted prematurely in ordering the Claymont and Hockess in schools desegregated when Delaware was in the process of equalizing the schools in question. This argument still could not counter the fact that Claymont students would still be required to make a ten mile bus ride to and from school. Belton and Bulah would be represented by Louis Redding and Jack Greenberg. These attorneys argued that the temporary relief granted by the lower courts was not sufficient and that the state should permanently be prohibited from segregating Delaware students. Redding and Greenberg also asserted that Seitz had not been

presented with any firm plans by the state to equalize Negro schools.

Before exploring how the different Justices viewed these school segregation arguments, it should be noted that no one other than the Justices were allowed in the conference room during deliberations. Our primary sources of information on how the Justices felt were derived from notes taken by Justices Burton and Jackson. Statements made by the Justices and their clerks formed the basis of other sources of information.

The Chief Justice was Fred M. Vinson from Kentucky when the original arguments were presented in *Brown*. Before 1935, the Supreme Court had ruled unanimously 85% of the time. The first year Vinson led the court the rate was 36%. By his third year, the rate would drop to 26% and continue to drop in subsequent years under Vinson's leadership. Thus, the likelihood of the Vinson court reaching a unanimous decision on school segregation was slim as long as Vinson was the Chief Justice. According to Justices Burton and Jackson's notes, Vinson was not ready to support the abolition of school segregation.

An observer of Justice Hugo Black, who was familiar with his political background, might wrongly assume that he would support school segregation. After all this Justice from Alabama had been a member of the Ku Klux Klan for two years and had filibustered against anti-lynching legislation in the Senate. However, once Black was removed from the influence of his segregationist constituency, he voted his conscious. Black's judicial record supported the contention that he was an outspoken advocate in protecting the Negro's rights as guaranteed under the Bill of Rights and the 14th Amendment. This was evident by the position he took in the *Gaines* decision and his opinion in *Chambers v. Florida* when he wrote, "The Court was to stand as a haven for the helpless victims of prejudice." There was little doubt that he would vote to end school segregation.

Justice Thomas Clark who grew up in Texas, voted 90% of the time with Chief Justice Vinson. Clark was the Attorney General in the Truman administration. Clark's record in the Justice Department was not glowing in the area of civil liberties. For the Attorney General had launched security checks throughout the government, stepped up wire tapping, disseminated lists of subversive groups, worked against aliens trying to enter the U.S. with communist ties, and directed the Japanese American internment program. So it is not surprising that Clark would prefer to take a wait and see stance with the issue of school segregation.

Justice Sherman Minton the former Indiana Senator, stated at the deliberating conference according to the notes taken, that a body of constitutional law had grown up around the "separate but equal" doctrine that gave it an aura of legitimacy. Minton asserted that the Court had been chipping away at this doctrine and that he felt that the classification of American citizens on the basis of race was unreasonable. This segregation was unconstitutional.

Stanley Reed, another Kentuckian, according to Burton's notes was leaning toward upholding segregation. Justice Felix Frankfurter, an advocate of judicial restraint, felt that the school segregation issue was not a judicial matter but a state matter to decide. But if a desegregation order was forthcoming, it should come from a unanimous court and should allow the South time to cope with such a drastic decision. For a jurist such as Frankfurter delaying a plaintiff's justified relief posed a problem. Justices Douglas, Jackson, and Burton were leaning toward voting against school segregation. It must be noted that Justice Jackson would only agree to desegregate the school if the South was given time to comply.

Chief Justice Vinson was unable to unify the court. All of the Justices realized the importance of arriving at a unanimous decision in the school segregation case. A split decision striking down segregation could divide the country. Justice Frankfurter and his clerk, Alexander Beckil formulated a list of five questions that might bring the Court together. The Court agreed that all the parties involved in *Brown* should prepare briefs addressing

these questions. There were three basic points that these questions addressed, they were: (1) Did Congress and the states which ratified the 14th Amendment intend this Amendment to abolish segregation in public schools? (2) Did Congress and the states which ratified the 14th Amendment intend for the amendment to give Congress or the courts the power to abolish segregation in public schools in the future? (3) If the answer to either question was yes, then how should the desegregation of public schools be achieved?

Chief Justice Vinson would die before the re-arguments were heard. Some historians believe that if Vinson had not died at this time, the Supreme Court would have definitely delivered a split decision in this case. Vinson was replaced by Earl Warren, the governor of California. Warren had established an excellent reputation as a crime fighter when he was a district attorney and his record as governor was outstanding. The only blemish on Warren's record was the role he played in the internment of Japanese-Americans. Warren said very little during the Brown rearguments but afterwards he realized that segregation had no place in American society. Even though Warren had no judicial experience, he possessed the qualities necessary for a Chief Justice to unify the divided court hearing the Brown case.

During the rearguments addressing the questions formulated by Frankfurter and his clerk, neither side was able to present any concrete evidence that the framers or ratifiers of the 14th Amendment intended for it to prohibit segregation in public schools. Marshall, however, pressed the point that the only way the Justices could allow segregation to stand is to affirm the belief that the Negro was inferior. The opposition asserted that the framers of the 14th Amendment never intended for it to strike down segregation in public schools because Congress allowed the schools in Washington, D.C. to be segregated. Marshall's argument did not fall on deaf ears, for in Earl Warren's opening statement during the final deliberations in the Supreme Court conference room, he mimicked Marshall's statement that the only way to justify segregation was for the Court to affirm the idea of Negro inferiority. Earl Warren by listening to his colleagues' reservations was able to formulate an opinion which gave the South time to cope with a desegregation order and that would allow states an opportunity to develop their own desegregation plans. Justice Reed was the only holdout. Reed only acquiesced after Warren told him that he was the lone dissenter and that he should contemplate the consequences which could result from his dissent. Reed, being a Southerner, realized how segregationists would grasp onto his lone dissent and use it to justify their resistance to a desegregation order.

On Monday, May 17, 1954 Earl Warren would read the historic unanimous opinion of the Supreme Court striking down the "separate but equal" doctrine and ending public school segregation. This decision is commonly referred to as Brown I. Subsequently, other segregation laws concerning other aspects of American life would be found unconstitutional citing the Brown decision. All the litigants involved and states with school segregation laws were ordered to submit briefs to the Court the following year suggesting how the desegregation order could be implemented in their state.

The following year, Earl Warren would deliver the Court's second opinion in the Brown case, this one concerning the implementation of the desegregation ruling. This decision is referred to as Brown II. The Court asserted that "the defendants were ordered to make a prompt and reasonable start toward full compliance with our May 17, 1954, ruling." The Court also stated that students could not be assigned to schools on a racial basis. Thus, it is possible to have a school that is either totally black or white as long as this didn't result from the students being assigned to these schools based on race. There is an excellent movie produced by ABC entitled, "Separate-But Equal" starring Sidney Poitier as Thurgood Marshall that I strongly recommend being shown at this point. This movie chronicles the major events of *Briggs v. Elliot* in route to the Supreme Court and its adjudication. The reaction to the Brown ruling varied from state to state. I plan on having my students go to the library and read newspaper articles from the *New Haven Register* covering the reactions to

Brown.

After concluding this unit, it wouldn't be surprising for my students to look around and ask, "If segregation was outlawed in 1954, why then is most of my class and school predominately African Americans?" Their concern would only be heightened once they found out that 80% of all minority students in Connecticut are located in 14 communities while in 140 other communities the student population is 90% or greater white. Instead of taking the approach of telling students why these conditions exist in Connecticut, I intend to ask probing questions that will allow students to formulate the reasons why this situation exists. Some of the questions would be:

1. Why type of communities in Connecticut do you think would have school systems that are predominately made up of minority students?
2. Why do minorities choose these cities?
3. What type of communities in Connecticut do you think would have school systems that are predominately made up of white students?
4. Why do whites choose these communities?

The state of Connecticut realizes that a segregation problem exists when most of its minority students are located in 14 of its cities. Connecticut is the only state that has enacted a racial imbalance law that forces communities to submit plans to correct a racial imbalance within a school if it exists. The state defines "racial imbalance as a condition wherein the proportion of pupils of racial minorities in all of the grades of a public school of the secondary level or below taken together substantially exceeds or falls substantially short of the proportion of such public school pupils in all of the same grades of the school district in which said school is situated taken together." If a school is racially imbalanced according to the above criteria, it is notified by the state and must then submit a plan to correct the imbalance. However, if a school district is comprised of 70% or more minority students, they are granted more leeway under the statute. As a concluding project to this unit, students will contact the Commissioner of Education for Connecticut and the Superintendent of Schools for New Haven to see what steps are being taken to help integrate schools in their charge. Also, my students will be asked to come up with some suggestions to address Connecticut's segregation problem.

CLASSROOM ACTIVITIES

Classroom Activity #1

Objectives:

1. Students will interview people who lived under Jim Crow.
2. Students will write a two to three page paper detailing their interviews and their reaction to Jim

Crow.

Materials/Resources :

1. Interview list
2. Questions
3. Recorder

Procedure :

1. Discuss meaning of “Jim Crow.”
2. Explain to students that part of this assignment will entail them to interview people who lived under Jim Crow.
3. It will generate list of people to be interviewed with assistance of teacher/parent/guardian.
 - a. Students will interview at least 6 individuals—at least two should be white.
4. Each student will generate a list of interview questions that will be reviewed by the teacher.
5. Discussion on how to conduct interviews.
 - a. Be polite and courteous.
 - b. Come prepared with questions.
 - c. Bring recorder.
 - d. Thank person interviewed.
6. Write reaction paper 2 to 3 pages.

Classroom Activity #2

A representative from the local branch of the NAACP will be invited to come to class and talk about the role the NAACP played in the struggle to end school segregation and the role the NAACP is now playing.

Classroom Activity #3

Objective :

1. Students will view the ABC movie “Separate but Equal” starring Sidney Poitier as Thurgood Marshall.

Materials/Resources:

1. ABC movie “Separate But Equal.”
2. Question sheet.

Procedure :

1. Give brief overview of film.
2. Pass out question sheet that students will be responsible for answering after viewing film.
3. Run film.

BIBLIOGRAPHY FOR TEACHERS

Blaustein, Albert P., and Clarence Clyde Fergeson, Jr., *Desegregation and the Law: The Meaning and Effect of the School Segregation Cases* . (New Brunswick: Rutgers University Press, 1957). Excellent resource on history of desegregation.

Kluger, Richard. *Simple Justice: The History of Brown v. Board of Education and Black America’s Struggle for Equality* . (New York: Alfred A. Knopf, Inc., 1976). Great resource on history of desegregation, a must read. This book also contains pictures of the mayor participants in all five cases argued under Brown.

Logan, Rayford W., *Howard University: The First Hundred Years. 1867-1967* . (New York: New York University Press, 1968). Excellent resource on Howard University and its role in fighting segregation.

Morris, Arval A., *The Constitution and American Public Education* . (Durham, North Carolina: Carolina Academic Press, 1989). Excellent source for cases involving schools and segregation. Contains Brown I and II.

Peltason, J. W. *Fifty-eight Lonely Men: Southern Federal Judges and School Desegregation* . (New York: Harcourt, Brace & World, 1961). Gives an excellent account of struggle Southern judges encountered in

attempting to implement desegregation order.

Wilkinson, J. Harvie III. *From Brown to Bakke: The Supreme Court and School Integration: 1954-1978* . (New York: Oxford University Press, 1979). Explores Brown I and II and discusses the use of busing in several communities and the reaction.

Ziegler, Benjamin Munn, ed., *Desegregation and the Supreme Court: Problems in American Civilization* . (Boston: D.C. Heath and Company, 1958). Series of articles by various authors providing background on segregation, the Brown decisions and reaction to Brown.

STUDENT READING LIST

Aptheker, Herbert, *A Documentary History of the Negro People in the United States* , Vol. 2, *From Reconstruction Era to 1910* . New York: The Citadel Press, 1961. Comprehensive history of Negroes in the U.S.

Blanstein, Albert P., Zangrando, Robert L., editors, *Civil Rights and the American Negro: A Documentary History* . New York: Washington Square Press, 1968. Good source on Civil Rights Movement.

Fenderson, Lewis H., *Thurgood Marshall: Fighter for Justice* . New: McGraw-Hill Book Co., 1969. Traces Marshall's life from boyhood to his appointment to the Supreme Court.

Fox, Stephen R., *The Guardian of Boston: William Monroe Trotter* . New York: Atheneum Publishers, 1970.

Graham, Shirley, Booker T. *Washington: Educator of Hand. Head and Heart* . New York: Julian Messner, 1955. A biography of the life and times of Booker T. Washington.

Hamilton, Virginia. *W.E.B. DuBois: A Biography* . New York: Thomas Y. Cromwell Company, 1972. Besides providing a biography of W. E. B. DuBois, it also presents a good account of formation and aim of NAACP.

Hughes, Langston. *The Fight for Freedom: The Story of the NAACP* . New York: W. W. Norton & Company, Inc., 1962. Excellent account of the history of NAACP.

Logan, Rayford W., *The Betrayal of the Negro: From Rutherford B. Hayes to Woodrow Wilson*. New York Collier Books, 1965. Excellent source on Compromise of 1877 and presidential elections of 1876.

Twain, Mark, *Pudd'nhead Wilson* . New York and London: Harper & Brothers, 1922.

Woodson, Carter. *The Education of the Negro Prior to 1861* . Washington: Association for the Study of Negro Life and History, 1919.

CLASSROOM RESOURCES

1. ABC movie, "Separate But Equal" starring Sidney Poitier as Thurgood Marshall, 1991.
2. Connecticut's Racial Imbalance Act. C.G.S.A. §10-226a-10-226e.
3. *Kennedy v. Wallace*, produced by Robert Drew The American Experience, Season IV. This film can serve to demonstrate the resistance to desegregation by Gov. Wallace and President Kennedy's reaction. The American Experience is a presentation of WGBH/Boston, Thirteen/WNCJ and KCEJ/Los Angeles.

§10-226a. Pupils of racial minorities

(a) Each local or regional board of education shall annually submit to the state board of education at such time and in such manner as said board may prescribe such data as said board may require in order to determine the total number of pupils of racial minorities in the schools under the jurisdiction of each board and, in such cases as said board shall determine, the number of such pupils in each school and in each grade.

(b) As used in sections §10-226a to §10-226e, inclusive, "pupils of racial minorities" means those whose racial ancestry, in whole or in part, is Negro, Mongolian or Malay and students whose ancestry, in whole or in part is Puerto Rican, Mexican American or American Indian.

(1969, P.A. 73, § 1, eff. July 1, 1969; 1974, P.A. 74-149; 1978, P.A. 78-218, § 152.

§10-226b. Existence of racial imbalance

(a) Whenever the state board of education finds that racial imbalance exists in a public school, it shall notify in writing the board of education having jurisdiction over said school that such finding has been made.

(b) As used in sections 10-226a to 10-226e, inclusive, "racial imbalance" means a condition wherein the proportion of pupils of racial minorities in all of the grades of a public school of the secondary level or below taken together substantially exceeds or falls substantially short of the proportion of such public school pupils in all of the same grades of the school district in which said school is situated taken together.

(1969, P.A. 773, § 2, eff. July 1, 1969.)

✕ **10-226c. Plan to correct imbalance**

(a) Any board of education receiving notification of the existence of racial imbalance as specified in section 10-226b shall forthwith prepare a plan to correct such imbalance and file a copy of said plan with the state board of education.

(b) Any plan submitted by the board of education of any town under sections 10-226a to 10-226e, inclusive, shall include the proposed changes in existing school attendance districts, the location of proposed school building sites as related to the problem, any proposed additions to existing school buildings and all other means proposed for the correction of said racial imbalance. The plan shall include projections of the expected racial composition of all public schools in the district. The plan may include provision for cooperation with other school districts to assist in the correction of racial imbalance.

(1969, P.A. 773, ✕✕ 3,4, eff. July 1, 1969).

✕ **10-226d. Approval of plan by state board**

Upon receipt of any plan required under the provisions of subsection (b) of section 10-226c, the state board of education shall review said plan. If it determines that the plan is satisfactory, it shall approve the plan and shall provide to the board of education such assistance and services as may be available. The board of education shall submit quarterly reports on the implementation of the approved plan, as the state board of education may require.

(1969, P.A. 773, ✕ 5, eff. July 1, 1969.)

✕ **10-226e. Regulations**

The state board of education shall have the authority to establish regulations for the operation of sections 10-226a to 10-226e, inclusive, including times and procedures and reports to said board, and the criteria for approval of plans to correct racial imbalance and fix standards for determination as to racial imbalance. Such regulations may include separate times and procedures for reports, criteria for plan approvals and standards for racial imbalance determinations as alternatives for school districts with minority student enrollments of seventy per cent or more.

(1969, P.A. 773, ✕ 6, eff. July 1, 1969; 1986, P.A. 86-78, ✕1, eff. July 1, 1986).

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