Brown v. Board of Education: Virginia's Role and Response


THE TRIBUNE

THE ONLY NEGRO NEWSPAPER PUBLISHED IN SOUTHWEST VIRGINIA

SINGLE COPY—10 CENTS

APPROVED BY NOKE MERCHANTS' ASSOCIATION Approval Card 70

ROANOKE, VIRGINIA, SATURDAY, MAY 22, 1954

VOLUME XIII—NO. 17

SEGREGATION DECLARED UNCONSTITUTIONAL!

Lynchburg Man Given Thirty-Five Years For Rape

High Court Decrees It Must Cease

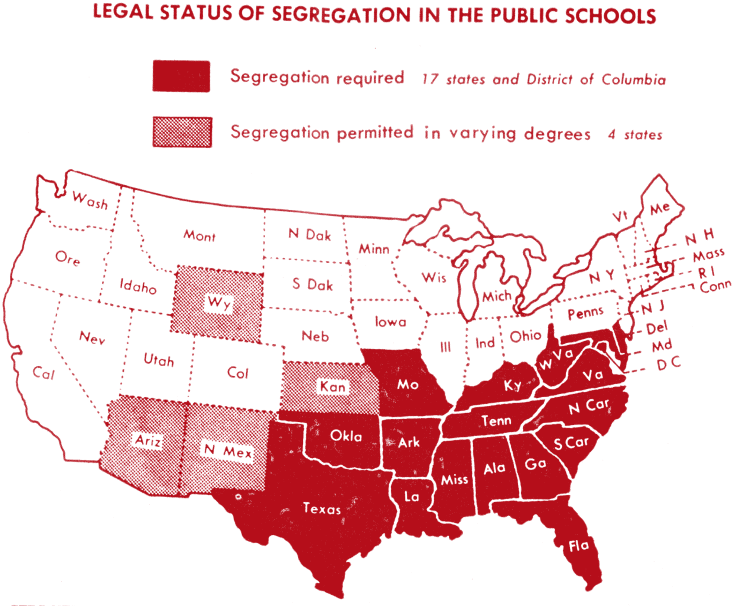
Appeal May Be Filed In Sixty Days

Dr. Roberts Speaks at Cornerstone Laying Ceremonies at New Burrell Memorial Hospital Last Sunday

Rev. Alexander Named To Youth Study Commission

Five-Year Child Killed By Car

SEVEN MINISTERS AND CHOIRS TO SERVE IN BUCHANAN CHURCH AND PASTOR ANN



MAP FROM *Southern School News* I, NO. 1 (SEPT. 3, 1954):1

Introduction

On May 17, 1954, the United States Supreme Court ruled that school segregation was unconstitutional, and cleared the way for the desegregation of public schools. Chief Justice Earl Warren's announcement of the unanimous decision was not just powerful—for much of the country, it was stunning.

> *We come then to the question presented: Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other "tangible" factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does.*
>
> *We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment.*

The significance of *Brown v. Board of Education* can be understood by examining the past, the present, and its implications for the future. The *Brown* decision was the first step in striking down long-standing laws that denied equal rights to African-American citizens, and was the catalyst for the Civil Rights Movement that followed. The road to Brown and the Civil Rights Movement is a story of a people—individuals who tapped into an inner courage and strength that has sustained them for centuries of racial bigotry, indignities, and discrimination to right social inequities and injustice, claim their inalienable rights, and make the future better for generations to come.

Background

The Declaration of Independence states:

> *We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.*

Although these fundamental principles and values are the cornerstone upon which this Commonwealth and the nation were founded, prior to Reconstruction, the law, particularly in the South, prohibited the education of African Americans. After Reconstruction, certain laws were imposed that legally sanctioned the rigid separation of the races in every area of society and educational inequities under the doctrine of "separate but equal," which was upheld by the Supreme Court in 1896 in *Plessy v. Ferguson* (163 U.S. 537).

In 1892, "a dark-skinned Creole, Homer Plessy, was arrested and jailed for sitting in a Louisiana railroad car designated for white people only. Plessy had violated the 1890 state law," the Louisiana Separate Car Act, which required railroads to seat Black and white passengers in separate rail cars. Plessy challenged the Louisiana state law and in 1896, the Supreme Court upheld the law, stating that it treated Black and white people equally, in that both races were forbidden to ride in the car designated for the other race.

The effect of the *Plessy* decision was the institutionalization of segregation in the United States, and the onset of an era of virulent racial discrimination against African Americans. It also provided justification for segregation in public accommodations across the country. For example, Black citizens, if served, were forced to eat in separate areas in restaurants, use separate water fountains, enter and exit from different doors, and attend public schools separate from white children. In many areas of the United States, restaurants and hotels were segregated and travel was extremely difficult and perilous, if not impossible, for African Americans. Employment opportunities were so restricted as to be nonexistent.

The doctrine of "separate but equal" was unchallenged for nearly 50 years, until a series of decisions questioning the constitutionality of segregation in institutions of

higher education were heard in state and federal courts. It is a fact that schools were "separate but never equal." School conditions, including curricula, textbooks and equipment, bus transportation, and school buildings for African American students in Virginia and across the South, were grossly inferior to the public education afforded white students.

Five Cases

The landmark decision commonly known as *Brown v. Board of Education* was actually a consolidation of five class action lawsuits filed on behalf of African-American children who were required by law to attend racially segregated schools. The cases on appeal to the United States Supreme Court challenged the doctrine of "separate but equal" as applied to justify racial segregation in public schools in Kansas, Virginia, Delaware, South Carolina, and the District of Columbia. The cases reached the Supreme Court at about the same time, and because of their similar nature, the Court heard arguments on them together. The Kansas case was the first case docketed in the Supreme Court; therefore, the five cases are together known as *Brown et al v. Board of Education of Topeka, Shawnee County, Kansas, et al*. In each case, lawyers from the National Association for the Advancement of Colored People (NAACP) represented the plaintiffs. Some of the most prominent civil rights lawyers of the day were involved in preparing the cases for the African American children and their parents, including James M. Nabrit, Jr., Spottswood W. Robinson, III, George E. C. Hayes, Jack Greenberg, Robert L. Carter, Louis L. Redding, Constance Baker Motley, Oliver W. Hill, Sr., Charles L. Black, Jr., Jack B. Weinstein, Harold Boulware, Charles Scott, and Thurgood Marshall. They argued that being required to attend separate, segregated schools violated the Black students' rights under the Equal Protection Clause of the Fourteenth Amendment, which states:

> *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;*

not deny to any person within its jurisdiction the equal protection of the laws.

For the plaintiffs, the decision to step forward and file suit against the white establishment was difficult and dangerous, requiring courage and determination. The parents faced great personal danger for their involvement in the lawsuits. They lived every day with the dreadful bleakness, indignity, and barriers of segregation and Jim Crow laws. They saw the vast differences between schools for white children and Black children. They realized that school funding was grossly unequal and that their children received little or no benefit from the taxes that they paid to support the public school system. They knew that the curriculum in public schools for African-American children was inferior to that of white children, that school facilities were overcrowded and dilapidated, and that transportation was poor and in some areas of the State, nonexistent. They hated to see their children suffer such grievous inequities on the basis of their race. Some parents lost their jobs and many faced intimidation, threats, and violence against their families and themselves. Still, they set aside their own personal fears and moved forward with the lawsuits to make the future better for their children and grandchildren.

Spottswood Robinson and Oliver Hill with two clients. LC-USZ62-118180

Kansas: *Brown v. Board of Education*

In 1951, Oliver Brown filed suit against the Topeka, Kansas, Board of Education, after the Board refused to allow his third-grade daughter, Linda, to attend the white elementary school located only a few blocks from their house. To reach the Black elementary school, Linda had to walk one mile through a dangerous railroad yard.

The plaintiffs argued that African-American children attending a segregated school were made to feel inferior to whites, and that no school curriculum can be equal under segregation. Attorneys for the Board of Education argued that attending segregated schools prepared children for the segregated society they would face as adults and pointed to people such as Frederick Douglass, Booker T. Washington, and George Washington Carver as examples of individuals who overcame racial barriers to achieve fame. Although the court agreed with the plaintiffs that segregation had a damaging effect on African-American schoolchildren, it ultimately relied on the legal precedent established in *Plessy* to rule in favor of the Board of Education. Mr. Brown appealed to the United States Supreme Court on October 1, 1951.

South Carolina: *Briggs v. Clarendon County*

Harry Briggs and 19 other parents filed suit against R.W. Elliot, president of the Clarendon County School Board in South Carolina. Clarendon County provided bus transportation for white children but not for Black children. The parents requested that the county provide buses for their children, but the petition was ignored. The parents filed suit, and their case went before the United States District Court in May 1951. The justices ruled 2-1 against the parents, but ordered the school board to equalize schools, finding that inferior conditions existed in the Black schools.

Delaware: *Belton v. Gebhart* and *Bulah v. Gebhart*

These cases involved bus transportation and inferior school facilities. In *Belton*, Black parents in Claymont, Delaware petitioned for both a better school building and bus transportation. In *Bulah*, Black parents sought bus transportation for their children in Hockessin, Delaware. The Delaware Court of Chancery found in favor of the parents, but the Delaware Board of Education appealed to the United States Supreme Court.

District of Columbia: *Bolling v. Sharpe*

Attempting to end segregated schools in Washington, D.C., Gardner Bishop and the Consolidated Parents Group, Inc., tried to enroll 11 Black students in the newly-completed John Philip Sousa Junior High School. The students were denied admission. James Nabrit, Jr., a professor at Howard University, argued that segregation itself was unconstitutional. The United States District Court dismissed the case, but the Supreme Court included this case in the *Brown* cases. The Supreme Court issued a separate opinion in *Bolling*, basing its decision on the Equal Protection Clause in the Fifth Amendment, since the Fourteenth Amendment applies only to states and is not applicable in Washington, D.C., a federal enclave.

Virginia: *Davis v. County School Board of Prince Edward County*

Robert Russa Moton High School in Prince Edward County, Virginia, was built in 1939 for Black children. It was inadequate and overcrowded from the start. Unlike Farmville High School, which white students attended, Moton had no gymnasium, cafeteria, auditorium with fixed seats, locker rooms, or infirmary. As the enrollment at the school continued to grow, the county built temporary "tarpaper shacks"—outbuildings made of wood, covered in tarpaper, and heated with a single stove—which were invariably leaky and chilly.

Parents, students, and PTA members were greatly disturbed by the gross inadequacies at Moton School, and tried to work through the all-white School Board to bring about change. The School Board, however, was extremely unresponsive to their request for a new school and other improvements. Frustrated by the lack of progress and angry at the disparity between high schools for African American and white students, on April 23, 1951, students at Moton School, led by Barbara Johns and John and Carrie Stokes, staged a strike. Students either remained on school grounds and carried picket signs, or sat at their desks with books unopened, not participating in lessons, while the strike committee sought to meet with the School Superintendent and other officials. Those

meetings proved to be useless. The students also asked to meet with NAACP lawyers from Richmond.

> *Gentlemen:*
>
> *We hate to impose as we are doing, but under the circumstances that we are facing, we have to ask for your help.*
>
> *Due to the fact that the facilities and building in the name of Robert R. Moton High School, are inadequate, we understand that your help is available to us. This morning, April 23, 1951, the students refused to attend classes under the circumstances. You know that this is a very serious matter because we are out of school, there are seniors to be graduated and it can't be done by staying at home. Please we beg you to come down at the first of this week.*
>
> —Excerpt of student letter to NAACP, as printed in *Simple Justice* (Kluger, 1975)

Reverend L. Francis Griffin, president of the Moton PTA, and the local chapter of the NAACP, was a visionary and great spiritual leader in the community. Supporting the students and bolstering the courage of the parents to file suit, Reverend Griffin declared, "Anybody who would not back these children after they stepped out on a limb is not a man."

The strike lasted two weeks. One month after it began, suit was filed in federal court on behalf of 117 Moton students who asked that the state law requiring segregated schools in Virginia be overturned. The first name on the list of students was that of ninth grader Dorothy Davis, which is how the case came to be styled *Davis v. County School Board of Prince Edward County*. The *Davis* case, with its strong facts demonstrating so clearly how inherently unequal separate schools were, provided inspiration for the legal arguments in the cases that comprised *Brown v. Board of Education*.

The Virginia Response

Despite the Supreme Court ruling in *Brown* that school segregation was unconstitutional, public schools in

Virginia did not immediately begin to desegregate. In fact, all levels of government demonstrated intense resistance to compliance with the *Brown* decision, as the state exhausted every possible means to avoid desegregation. The resistance lasted 10 years, during which time schools were closed in several localities for various periods of time, and military enforcement of the law to integrate schools that did stay open was necessary. However, Prince Edward County closed its public schools for five years. Thousands of Black students and hundreds of white students could not graduate and were denied education. In other parts of the Commonwealth, the very few African-American students attending white schools were harassed, threatened, isolated, humiliated, and treated with contempt.

1954

Response to the Brown decision came quickly in the General Assembly of Virginia. On August 30, 1954, Governor Thomas Bahnson Stanley appointed thirty-two legislators to the Commission on Public Education, which was charged with examining the effect of the decision on the Commonwealth and making recommendations. After many meetings and a lengthy public hearing, the Commission issued its report on November 11, 1955, stating emphatically that "separate facilities in our public schools are in the best interest of both races, educationally and otherwise, and that compulsory integration should be resisted by all proper means in our power." The report recommended 12 legislative actions to achieve that goal:

> *1. That school boards be authorized to assign pupils to particular schools and to provide for appeals in certain instances.*
>
> *2. That no child be required to attend an integrated school.*
>
> *3. That the sections of the Code relating to the powers and duties of school boards relative to transportation of pupils be amended so as to provide that school boards may furnish transportation for pupils.*

4. That changes be made in the law relating to the assignment of teachers.

5. That localities be authorized to raise sums of money by a tax on property, subject to local taxation, to be expended by local school authorities for educational purposes including cost of transportation and to receive and expend State aid for the same purposes.

6. That school budgets be required to include amounts sufficient for the payment of tuition grants and transportation costs under certain circumstances.

7. That provision be made for the reimbursement by the State of one-half of any additional costs which may be incurred by certain localities in payment of tuition grants required by law.

8. That local school boards be authorized to expend funds designed for public school purposes for such tuition grants as may be permitted by law without first obtaining authority therefore from the tax levying body.

9. That the employment of counsel by local school boards be authorized to defend the actions of their members and that the payment of costs, expenses and liabilities levied against them be made by the local governing bodies out of the county or city treasury as the case may be.

10. That the Virginia Supplemental Retirement Act be broadened to provide for the retirement of certain private school teachers.

11. That the office of the Attorney General should be authorized to render certain services to local school boards.

12. That those sections of the Code relating to the minimum school term, appeals from actions of school boards, State funds which are paid for public schools in certain counties, school levies and use thereof, cash appropriations in lieu of school levies, and unexpended school funds, be amended.

Before any of these recommendations could be implemented, the Commission realized that § 141 of the Constitution of Virginia must be amended to allow state funds to be used to pay tuition grants and scholarship funds to private, segregated schools when public schools closed. Governor Stanley called a special session of the General Assembly in November 1955 to initiate the first steps to call a constitutional convention.

1956

In addition to amending the Virginia Constitution, the 1956 Extra Session of the General Assembly introduced a flurry of Massive Resistance legislation. The budget bill began to appropriate funds only to "efficient" (i.e., segregated) school systems. The recommendations of the Commission on Public Education became law, and the Pupil Placement Board was created for the purpose of assigning students to particular public schools on the basis of race.

The "Doctrine of Interposition" was introduced into the legislative lexicon. The Doctrine of Interposition holds that the federal government cannot impose its will on the states. Stated simply, states have certain sovereign powers over which the federal government has no control. Many argued that the decision to segregate public schools was a decision over which the federal government had no control. Those who espoused this view believed that each state could do as it wished in structuring its public schools.

CARTOON FROM *Southern School News* 5, NO. 8 (FEB. 1959):I

1957

Established in September 1956, the Committee on Law Reform and Racial Activities began its investigation of the NAACP (National Association for the Advancement of Colored People). Members of the NAACP, plaintiffs

and attorneys in the Virginia desegregation cases were all brought before the General Assembly and compelled to testify about their activities. In addition to questioning their motives and methods, the Committee also laid bare the financial records of many of these individuals, subjecting them to a level of public scrutiny and intimidation that was unprecedented. The NAACP lost one third of its membership because of the intimidating tactics of the Committee.

1958

The Legislature passed laws that allowed for the closing of public schools whenever military forces were used by the federal government or whenever the "peace and tranquility" of any school division was likely to be disturbed. Localities were authorized to use state-funded tuition grants to send white children to private schools when public schools were closed.

Governor Stanley called the 1956 Session "in the conviction it was in the best interest of members of both the white and Negro races and that any other course would jeopardize, if not destroy, our system of public education." In his inaugural address on January 8, 1958, Governor James Lindsay Almond, who had argued for the Commonwealth and Prince Edward County before the Supreme Court, said, "Integration anywhere means destruction everywhere…These two convictions—sound public education and racial integration—are mutually exclusive."

1959

The General Assembly abandoned the "Massive Resistance" approach for "Freedom of Choice." A new tuition grant/scholarship program was enacted for white children attending non-sectarian, segregated, private schools of public schools outside of the locality in which they resided. Legislation was also passed giving tax credits for donations to private schools, and repealing compulsory attendance laws.

The United States Supreme Court ruled in *Griffin v. School Board of Prince Edward* (the only school division in

Virginia to close all of its public schools) on May 25, 1964—almost 10 years to the date after *Brown*—that the Prince Edward County schools be reopened. The General Assembly responded by repealing the laws it had enacted to protect segregated schools. Piece by piece, the legislative architecture of Massive Resistance was dismantled.

Epilogue

Notwithstanding the formal end of Virginia's Massive Resistance, desegregation cases continued to be heard in federal courts until 1984, and the last case was finally dismissed in 2001. In 2003, the General Assembly of Virginia passed a resolution expressing profound regret over the closing of the Prince Edward schools, and in 2004, in addition to several other related measures designed to seize and maximize Virginia's Redemptive Moment, established a scholarship fund for the education of persons throughout the Commonwealth who were affected by the school closings.

PUBLIC-SCHOOL OPENING IN PRINCE EDWARD FROM *Southern School News* II, NO. 4 (OCT. 1964):12

Credits

The Martin Luther King, Jr. Memorial Commission wishes to thank the following people and organizations, which offered invaluable assistance in the development and publication of this brochure:

The Library of Virginia—especially Nolan Yelich, Gregg Kimball, Barbara Batson and Amy Winegardner—for their assistance with content, design and layout.

The Richmond Federal Reserve Bank for the printing of the brochure.

The Virginia Division of Legislative Services—especially Brenda Edwards, Norma Szakal and Cheryl Jackson—staff to the Commission.

Films To Be Released

"The Green Light: Fulfilling the Promise of Brown v. Board of Education"
(desegregation of New Kent County Public Schools)

Contact Persons: Mr. Brian Daughtery
bjdaug@wm.edu

Ms. Jody Allen
P. O. Box 263
Ashland, VA 23005
jlalle@wm.edu

"They Closed Our Schools"
A Documentary Film on the History of the Public Schools Closings, 1959-1964,
and Its Aftermath, in Prince Edward County, Virginia

Contact Person: Mr. Brian Grogan
Producer, Mercy Seat Films
P. O. Box 324
El Portal, CA 95318
bgrogan@mercyseatfilms.com

"The Turning Point: Brown v. Board of Education"
(A Dr. Martin Luther King, Jr. Memorial Commission Production)

Contact Person: Mrs. Brenda H. Edwards
Division of Legislative Services
General Assembly Building, 2nd Floor
910 Capitol Street
Richmond, VA 23219
bedwards@leg.state.va.us

THE LIBRARY OF VIRGINIA
1823

DR. MARTIN LUTHER KING, JR.
MEMORIAL COMMISSION

CONTACT
Ms. Brenda H. Edwards
Division of Legislative Services
General Assembly Building, 2nd Floor
910 Capitol Street
Richmond, VA 23219

FRONT COVER: "SEGREGATION DECLARED UNCONSTITUTIONAL!" HEADLINE FROM (ROANOKE) *Tribune*, 22 MAY 1954