

Constitutional History of the United States

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Following the Sweatt and McLaurin cases the NAACP began a series of programs designated to test cases in all grades of public education. It was a result of this movement that school segregated cases reached the Supreme Court in the fall of 1952. The four segregated cases were:

1. Prince Edward County Virginia Case.
2. Clarendon County South Carolina Case.
3. Brown versus Board of Education of Topeka.
4. Delaware Case.

Because of these cases were much alike they were considered and appealed together under the Brown Case.

Prince Edward County Virginia Case

According to the court of Virginia, segregation was required. It was made mandatory that the Virginia State legislature maintain schools. The case was brought to the court's attention by grieved black parents whose children who had been denied to the white schools.

Clarendon County South Carolina Case.

It was state mandatory to provide separate schools for blacks and whites. Grieving parents brought the case to the court's attention.

Delaware Case

It came as a surprise because Delaware is a northern state. The Delaware state constitution made mandatory state legislature to provide separate but equal schools. Grieved black parents brought the case to the court's attention.

The Brown Case

The Brown case was different in that the Arkansas State constitution segregation was not required but was made permissible in any town having a population over 50, 000.

These cases were reviewed by Fred Vinson. The court argued at these hearings that the Supreme Court is dissatisfied with the whole traditional separate but equal principle. It was not satisfied with the arguments as presented. The Supreme Court felt that much more research was needed. The Supreme Court wanted both parties to do more research on the subject matter.

December 7-December 10, 1953.

John W. Davis eminent lawyer from South Carolina represented his state. The NAACP was represented by Thurgood Marshall. The government filed an **amicus curiae brief**. Presented by Lee Rankin, assistant attorney general.

At the second hearing the question was raised as to whether or not the Supreme Court should intervene in these great issues. The second issue involved federalism to what extent should the federal government be involved in the subject of education. That field of Human relations had been reserved to the states. Justice Frankfurter wanted to throw the cases out. By that time Earl Warren had ascended

the throne in Washington. Warren said they would proceed. Warren asked the parties to go back home and do further research and return in one year.

Third the Supreme Court.

The defenders argued that this 50 year old precedent of the Plessy Case must not be upset. They insisted that segregation was not discrimination and that the framers of the 14th Amendment and state legislatures ratifying the 14th Amendment did not intend to stop the states from passing these laws. They indicated that there was a strong preference of the southern states for segregation. They insisted that most black people opposed integration. Adverse decisions might cause trouble.

The attorneys of the NAACP insisted that the more recent decisions left the old Plessy opinions without support. They argued that segregation was inherent by discrimination. They cited a mass of testimony on part of social scientist that segregation injured Negro students.

On May 17, 1954 the Supreme Court unanimously announced, "We conclude that in the field of public education the doctrine of separate but equal principle has no place. Separate educational facilities are inherently unequal because of certain sociological and psychologically intangibles".

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In their reasoning the Supreme Court Earl Warren said in approaching this problem of segregation of public education that we could not turn back the clock to 1868 when the 14th Amendment was adopted or to 1896 when Plessy versus Ferguson was written. That we had to

consider public education in the light of its full development in its present place in America throughout the nation. Education is the most important function of state and local government because compulsory attendance and the great expenditure to education demonstrated our recognition of the importance of education in our democratic society. He pointed out that education is required in the performance of our basic responsibility. Warren insisted that education was the very foundation of good citizenship. That education is the principle instrument in training the child to cultural values, in enable surroundings, and preparing that child to take professional training. In these days it is doubtful that any child will be reasonably expected to succeed in life if he is denied the opportunity to education, such as opportunities where the state has under taken to provide it must be made available to all on equal terms. We now come to the question as to whether or not the segregation of children in public schools solely or deprives the child of a minority an equal education. We believe it does.

Reasoning- The segregation of blacks and white children in public schools does have a detrimental effect upon black children because the policy of separating the races is usually interpreted as asserting the inferiority of blacks. The sense of inferiority effects the motivation of a child to learn. Segregation according to law has the tendency to retard the mental development of black children and deprive them of benefits they would receive in a racially integrated school system.

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The Supreme Court was well aware of the momentous nature of the decision it had made and from that point it wished to proceed as

careful as possible. The court decided to delay a decision to be made. The Supreme Court invited the attorney generals from the states to come to Washington and join in discussions on how to carry out the court's decision.

The Implementation of the Decision of 1955

All and all approximately 71 attorneys attended the discussions. But attorneys from four the states refused to come to Washington and to become involved in any of the discussions. These four states were Alabama, Georgia, Louisiana and Mississippi.

So public school segregation was declared unconstitutional in 1954. In 1955 the court had to determine what should be done about the decision. Thurgood Marshall, of the NAACP, argued that the complaints in the case should be admitted directly or immediately to non-segregated schools. It was the present and personal right of each child. According to Marshall the Negrone child was being injured every day. The school officials did not need any more time for administrative adjustments. Instructed to desegregate was the duty of officials, would be clear and complex litigation unnecessary and justice would be accomplished.

On the other side, the state attorneys suggestions ranged from refusal to finality of the 1954 decision. In pleading for delay, except for the NAACP, these attorneys generally opposed a fore with order on the ground that it would create great civil disturbance in this land. That the cases should be sent by the district judges because these men were sympathetic to the southern view. They were given clear latitude and allowed to delay final segregation decrees until the local communities

were psychologically ready to accept integration. In pleading for delaying, the hostilities of the southerners to integrate was already stressed. The Department of Justice, although argued against segregation, also opposed a forth with decree that these schools should be forced to integrate immediately. The Justice Department took the position that these judges should be given specific instructions to disallow and stalling on decisions and present them convincing evidence that time was needed for adjustments.

On May 31, 1955 the Supreme Court announced that the states permitting segregation would be given time to put their schools in proper constitutional orders. The variety of problems makes it difficult to formulate a single decree. Cases were to be returned to the district courts so the judges could make orders to apply to each specific community. The court remanded the cases to the lower courts concerned and ordered them to work out equitable solutions to eliminate the variety of obstacles, to admit the parties of the cases to the public schools on a racially non-discriminatory basis with all deliberate speed.

Little Rock, Arkansas became a test case for the implementation of the court's 1954 decision. The then governor of Arkansas, Orval Faubus, emerged as a symbol and leader of public school segregation. When the events reached a crises, Governor Faubus ordered the Arkansas National Guard to prevent the integration of the Little Rock High School. President Eisenhower ordered the regular army into action to uphold the federal courts in Arkansas and the superior forces of the national government prevailed in the immediate crises.

Cooper Versus Aaron – 1958

The petitioners were Cooper and Edward Blossom. The respondent was a Negro parent name John Aaron. This case raised the question of the maintenance of the federal government and involved a claim of the state governor and the state legislators that there is no duty on state officials to obey federal court orders resting on Supreme Court considered interpretation of the Constitution of the United States.